

# **MISSOURI BEHAVIOR ANALYST ADVISORY BOARD**

CHAPTERS 337.300 to 337.340  
RULES: 20 CSR 2063-1.005 TO 20 CSR 2063-6.005

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## **MISSOURI BEHAVIOR ANALYST ADVISORY BOARD**



**STATE OF MISSOURI**  
Division of Professional Registration

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# **STATUTES**

## **CHAPTER 337**

### **337.300 Definitions**

As used in sections 337.300 to 337.345, the following terms shall mean:

- (1) "Applied behavior analysis", the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationships between environment and behavior. Applied behavior analysis does not include cognitive therapies or psychological testing, personality assessment, intellectual assessment, neuropsychological assessment, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, family therapy, and long-term counseling as treatment modalities;
  - (2) "Board", the behavior analyst advisory board within the state committee of psychologists;
  - (3) "Certifying entity", the nationally accredited Behavior Analyst Certification Board, or other equivalent nationally accredited nongovernmental agency approved by the committee which certifies individuals who have completed academic, examination, training, and supervision requirements in applied behavior analysis;
  - (4) "Committee", the state committee of psychologists;
  - (5) "Division", the division of professional registration within the department of commerce and insurance;
  - (6) "Licensed assistant behavior analyst" or "LaBA", an individual who is certified by the certifying entity as a certified assistant behavior analyst and meets the criteria in section 337.315 and as established by committee rule;
  - (7) "Licensed behavior analyst" or "LBA", an individual who is certified by the certifying entity as a certified behavior analyst and meets the criteria in section 337.315 and as established by committee rule;
  - (8) "Practice of applied behavior analysis", the application of the principles, methods, and procedures of the experimental analysis of behavior and applied behavior analysis (including principles of operant and respondent learning) to assess and improve socially important human behaviors. It includes, but is not limited to, applications of those principles, methods, and procedures to:
    - (a) The design, implementation, evaluation, and modification of treatment programs to change behavior of individuals;
    - (b) The design, implementation, evaluation, and modification of treatment programs to change behavior of groups; and
    - (c) Consultation to individuals and organizations;
  - (9) "Provisionally licensed assistant behavior analyst" or "PLABA", an individual who meets the criteria in subsection 5 of section 337.315 and as established by the committee by rule;
  - (10) "Provisionally licensed behavior analyst" or "PLBA", an individual who meets the criteria in subsection 5 of section 337.315 and as established by the committee by rule;
  - (11) "Temporary licensed assistant behavior analyst" or "TLABA", an individual who meets the criteria of subsection 4 of section 337.315 and as established by the committee by rule;
  - (12) "Temporary licensed behavior analyst" or "TLBA", an individual who meets the criteria in subsection 4 of section 337.315 and as established by the committee by rule.
- (L. 2010 H.B. 1311 & 1341, A.L. 2012 H.B. 1563)*

### **337.305 Advisory board created, members, terms, meetings, vacancies**

1. There is hereby created under the state committee of psychologists within the division of professional registration the "Behavior Analyst Advisory Board". The behavior analyst advisory board shall consist of the following seven members: three licensed behavior analysts, one licensed behavior analyst holding a doctoral degree, one licensed assistant behavior analyst, one professional member of the committee, and one public member.
2. Appointments to the board, except for the one professional member of the committee, shall be made by the governor upon the recommendations of the director of the division, upon the advice and consent of the senate. The division, prior to submitting nominations, shall solicit nominees from professional associations and licensed behavior analysts or licensed assistant behavior analysts in the state. Appointment to the board of the one professional member of the committee shall be made by nomination and majority vote of the committee.
3. The term of office for board members shall be five years. In making initial appointments to the board, the governor shall stagger the terms of the appointees so that one member serves an initial term of two years, three members shall serve an initial term of three years, and three members serve initial terms of four years. Each member of the board shall hold office until his or her successor has been qualified. A vacancy in the membership of the board shall be filled for the unexpired term in the manner provided for the original appointment. A member appointed for less than a full term may serve two full terms in addition to such part of a full term.
4. Each board member shall be a resident of this state for a period of one year and a registered voter, shall be a United States citizen, and shall, other than the public member, have been a licensed behavior analyst or licensed assistant behavior analyst in this state for at least three years prior to appointment except for the original members of the board who shall have experience in the practice of applied behavior analysis.
5. The public member shall be a person who is not and never was a member of any profession licensed or regulated



under sections 337.300 to 337.345 or the spouse of such person; and a person who does not have and never has had a material financial interest in either the providing of the professional services regulated by sections 337.300 to 337.345, or an activity or organization directly related to any profession licensed or regulated under sections 337.300 to 337.345.

6. The board shall meet at least quarterly. At one of its regular meetings, the board shall select from among its members a chairperson and a vice chairperson. A quorum of the committee shall consist of a majority of its members. In the absence of the chairperson, the vice chairperson shall conduct the office of the chairperson.

7. Each member of the board shall receive as compensation an amount set by the division not to exceed fifty dollars for each day devoted to the affairs of the board and shall be entitled to reimbursement for necessary and actual expenses incurred in the performance of the member's official duties.

8. Staff for the board shall be provided by the director of the division of professional registration.

9. The governor may remove any member of the board for misconduct, inefficiency, incompetency, or neglect of office. All vacancies shall be filled by appointment of the governor with the advice and consent of the senate, and the member so appointed shall serve for the unexpired term.

*(L. 2010 H.B. 1311 & 1341, A.L. 2012 H.B. 1563)*

### **337.310 Board powers and duties**

1. The behavior analyst advisory board is authorized to:

(1) Review all applications for licensure, provisional licensure, and temporary licensure for behavior analysts and assistant behavior analysts and any supporting documentation submitted with the application to the committee and make recommendations to the committee regarding the resolution of the application;

(2) Review all complaints made relating to the practice of behavior analysis and make recommendations to the committee regarding investigation of the complaint, referral for discipline or other resolution of the complaint; and

(3) Review any entities responsible for certifying behavior analysts and make recommendations to the committee as to approval or disapproval of the certifying entity based on qualifications established by the committee.

2. The board shall recommend to the committee rules to be promulgated pertaining to:

(1) The form and content of license applications required and the procedures for filing an application for an initial, provisional temporary or renewal license in this state;

(2) The establishment of fees;

(3) The educational and training requirements for licensed behavior analysts and licensed assistant behavior analysts;

(4) The roles, responsibilities, and duties of licensed behavior analysts, licensed assistant behavior analysts, provisionally licensed behavior analysts, provisionally licensed assistant behavior analysts, temporary licensed behavior analysts, and temporary licensed assistant behavior analysts;

(5) The characteristics of supervision and supervised clinical practicum experience for licensed behavior analyst, licensed assistant behavior analyst, provisionally licensed behavior analysts, provisionally licensed assistant behavior analysts, temporary licensed behavior analysts, and temporary licensed assistant behavior analysts;

(6) The supervision of licensed assistant behavior analysts, provisionally licensed behavior analysts, provisionally licensed assistant behavior analysts, temporary licensed behavior analysts, and temporary licensed assistant behavior analysts;

(7) The requirements for continuing education for licensed behavior analysts and licensed assistant behavior analysts;

(8) A code of conduct; and

(9) Any other policies or procedures necessary to the fulfillment of the requirements of sections 337.300 to 337.345.

3. Only after the board's recommendation and approval by majority vote may the committee make any final decisions related to licensing, rules and regulations, complaint resolution, approval of certifying entities or any actions bearing upon the practice of applied behavior analysis unless otherwise authorized by sections 337.300 to 337.345.

4. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

*(L. 2010 H.B. 1311 & 1341, A.L. 2012 H.B. 1563)*

**337.315. Intervention requirements — licensure requirements — temporary licenses — provisional license — practice of applied behavior analysis — violation, penalty.**

1. An applied behavior analysis intervention shall produce socially significant improvements in human behavior through skill acquisition, increase or decrease in behaviors under specific environmental conditions and the reduction of problematic behavior. An applied behavior analysis intervention shall:

(1) Be based on empirical research and the identification of functional relations between behavior and environment, contextual factors, antecedent stimuli and reinforcement operations through the direct observation and measurement of behavior, arrangement of events and observation of effects on behavior, as well as other information gathering methods such as record review and interviews; and

(2) Utilize changes and arrangements of contextual factors, antecedent stimuli, positive reinforcement, and other consequences to produce behavior change.

2. Each person wishing to practice as a licensed behavior analyst shall:

(1) Submit a complete application on a form approved by the committee, which shall include a statement that the applicant has completed two hours of suicide assessment, referral, treatment, and management training;

(2) Pay all necessary fees as set by the committee;

(3) Submit a two-inch or three-inch photograph or passport photograph taken no more than six months prior to the application date;

(4) Provide two classified sets of fingerprints for processing by the Missouri state highway patrol under section 43.543. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files;

(5) Have passed an examination and been certified as a board-certified behavior analyst by a certifying entity, as defined in section 337.300;

(6) Provide evidence of active status as a board-certified behavior analyst; and

(7) If the applicant holds a license as a behavior analyst in another state, a statement from all issuing states verifying licensure and identifying any disciplinary action taken against the license holder by that state.

3. Each person wishing to practice as a licensed assistant behavior analyst shall:

(1) Submit a complete application on a form approved by the committee;

(2) Pay all necessary fees as set by the committee;

(3) Submit a two-inch or three-inch photograph or passport photograph taken no more than six months prior to the application date;

(4) Provide two classified sets of fingerprints for processing by the Missouri state highway patrol under section 43.543. One set of fingerprints shall be used by the highway patrol to search the criminal history repository and the second set shall be forwarded to the Federal Bureau of Investigation for searching the federal criminal history files;

(5) Have passed an examination and been certified as a board-certified assistant behavior analyst by a certifying entity, as defined in section 337.300;

(6) Provide evidence of active status as a board-certified assistant behavior analyst;

(7) If the applicant holds a license as an assistant behavior analyst in another state, a statement from all issuing states verifying licensure and identifying any disciplinary action taken against the license holder by that state; and

(8) Submit documentation satisfactory to the committee that the applicant will be directly supervised by a licensed behavior analyst in a manner consistent with the certifying entity.

4. The committee shall be authorized to issue a temporary license to an applicant for a behavior analyst license or assistant behavior analyst license upon receipt of a complete application, submission of a fee as set by the committee by rule for behavior analyst or assistant behavior analyst, and a showing of valid licensure as a behavior analyst or assistant behavior analyst in another state, only if the applicant has submitted fingerprints and no disqualifying criminal history appears on the family care safety registry. The temporary license shall expire upon issuance of a license or denial of the application but no later than ninety days from issuance of the temporary license. Upon written request to the committee, the holder of a temporary license shall be entitled to one extension of ninety days of the temporary license.

5. (1) The committee shall, in accordance with rules promulgated by the committee, issue a provisional behavior analyst license or a provisional assistant behavior analyst license upon receipt by the committee of a complete application, appropriate fee as set by the committee by rule, and proof of satisfaction of requirements under subsections 2 and 3 of this section, respectively, and other requirements established by the committee by rule, except that applicants for a provisional license as either a behavior analyst or assistant behavior analyst need not have passed an examination and been certified as a board-certified behavior analyst or a board-certified assistant behavior analyst to obtain a provisional behavior analyst or provisional assistant behavior analyst license.

(2) A provisional license issued under this subsection shall only authorize and permit the licensee to render behavior analysis under the supervision and the full professional responsibility and control of such licensee's licensed supervisor.

(3) A provisional license shall automatically terminate upon issuance of a permanent license, upon a finding of cause to discipline after notice and hearing under section 337.330, upon termination of supervision by a licensed supervisor, or upon the expiration of one year from the date of issuance of the provisional license, whichever first occurs. The provisional license may be renewed after one year, with a maximum issuance of two years. Upon a showing of good cause, the committee by rule shall provide procedures for exceptions and variances from the requirement of a maximum issuance of two years.

6. No person shall hold himself or herself out to be licensed behavior analysts or LBA, provisionally licensed behavior analyst or PLBA, provisionally licensed assistant behavior analyst or PLABA, temporary licensed behavior analyst or TLBA, or temporary licensed assistant behavior analyst or TLaBA, licensed assistant behavior analysts or LaBA in the state of Missouri unless they meet the applicable requirements.

7. No persons shall practice applied behavior analysis unless they are:

(1) Licensed behavior analysts;

(2) Licensed assistant behavior analysts working under the supervision of a licensed behavior analyst;

(3) An individual who has a bachelor's or graduate degree and completed course work for licensure as a behavior analyst and is obtaining supervised field experience under a licensed behavior analyst pursuant to required supervised work experience for licensure at the behavior analyst or assistant behavior analyst level;

(4) Licensed psychologists practicing within the rules and standards of practice for psychologists in the state of Missouri and whose practice is commensurate with their level of training and experience;

(5) Provisionally licensed behavior analysts;

(6) Provisionally licensed assistant behavior analysts;

(7) Temporary licensed behavior analysts; or

(8) Temporary licensed assistant behavior analysts.

8. Notwithstanding the provisions in subsection 6 of this section, any licensed or certified professional may practice components of applied behavior analysis, as defined in section 337.300 if he or she is acting within his or her applicable scope of practice and ethical guidelines.

9. All licensed behavior analysts and licensed assistant behavior analysts shall be bound by the code of conduct adopted by the committee by rule.

10. Licensed assistant behavior analysts shall work under the direct supervision of a licensed behavior analyst as established by committee rule.

11. Persons who provide services under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400, et seq., or Section 504 of the federal Rehabilitation Act of 1973, 29 U.S.C. Section 794, or are enrolled in a course of study at a recognized educational institution through which the person provides applied behavior analysis as part of supervised clinical experience shall be exempt from the requirements of this section.

12. A violation of this section shall be punishable by probation, suspension, or loss of any license held by the violator.

*(L. 2010 H.B. 1311 & 1341, A.L. 2012 H.B. 1563, A.L. 2018 H.B. 1719)*

### **337.320 Renewal of licensure, procedure**

1. The division shall mail a renewal notice to the last known address of each licensee or registrant prior to the renewal date.

2. Each person wishing to renew the behavior analyst license or the assistant behavior analyst license shall:

(1) Submit a complete application on a form approved by the committee, which shall include a statement that the applicant has completed two hours of suicide assessment, referral, treatment, and management training;

(2) Pay all necessary fees as set by the committee; and

(3) Submit proof of active certification and fulfillment of all requirements for renewal and recertification with the certifying entity.

3. Failure to provide the division with documentation required by subsection 2 of this section or other information required for renewal shall effect a revocation of the license after a period of sixty days from the renewal date.

4. Each person wishing to restore the license, within two years of the renewal date, shall:

(1) Submit a complete application on a form approved by the committee;

(2) Pay the renewal fee and a delinquency fee as set by the committee; and

(3) Submit proof of current certification from a certifying body approved by the committee.

5. A new license to replace any certificate lost, destroyed, or mutilated may be issued subject to the rules of the committee, upon payment of a fee established by the committee.

6. The committee shall set the amount of the fees authorized by sections 337.300 to 337.345 and required by rules promulgated under section 536.021. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 337.300 to 337.345.

7. The committee is authorized to issue an inactive license to any licensee who makes written application for

such license on a form provided by the committee and remits the fee for an inactive license established by the committee. An inactive license may be issued only to a person who has previously been issued a license to practice as a licensed behavior analyst or a licensed assistant behavior analyst who is no longer regularly engaged in such practice and who does not hold himself or herself out to the public as being professionally engaged in such practice in this state. Each inactive license shall be subject to all provisions of this chapter, except as otherwise specifically provided. Each inactive license may be renewed by the committee subject to all provisions of this section and all other provisions of this chapter. The inactive licensee shall not be required to submit evidence of completion of continuing education as required by this chapter.

8. An inactive licensee may apply for a license to regularly engage in the practice of behavioral analysis by:

- (1) Submitting a complete application on a form approved by the committee;
- (2) Paying the reactivation fee as set by the committee; and
- (3) Submitting proof of current certification from a certifying body approved by the committee.

(L. 2010 H.B. 1311 & 1341)

### **337.325 Limitation on Practice**

A licensed behavior analyst, licensed assistant behavior analyst, provisionally licensed behavior analyst, provisionally licensed assistant behavior analyst, temporary licensed behavior analyst and temporary licensed assistant behavior analyst shall limit his or her practice to demonstrated areas of competence as documented by relevant professional education, training, or experience. A licensed behavior analyst, licensed assistant behavior analyst, provisionally licensed behavior analyst, provisionally licensed assistant behavior analyst, temporary licensed behavior analyst and temporary licensed assistant behavior analyst trained in one area shall not practice in another area without obtaining additional relevant professional education, training, and experience.

(L. 2010 H.B. 1311 & 1341, A.L. 2012 H.B. 1563)

### **337.330 Refusal of licensure--complaint procedure**

1. The committee may refuse to issue any license required under this chapter for one or any combination of causes stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621.

2. The committee may cause a complaint to be filed with the administrative hearing commission, as provided by chapter 621, against any holder of any license required by this chapter or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

- (1) Use of any controlled substance, as defined in chapter 195, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by this chapter;
- (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;
- (3) Use of fraud, deception, misrepresentation or bribery in securing any permit or license issued under this chapter or in obtaining permission to take any examination given or required under sections 337.300 to 337.345;
- (4) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception or misrepresentation;
- (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of any profession licensed by sections 337.300 to 337.345;
- (6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.300 to 337.345, or of any lawful rule adopted thereunder;
- (7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license, or diploma from any school;
- (8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 337.300 to 337.345 granted by another state, territory, federal agency, or country upon grounds for which revocation or suspension is authorized in this state;
- (9) A person is finally adjudged insane or incapacitated by a court of competent jurisdiction;
- (10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 337.300 to 337.345 who is not registered and currently eligible to practice as provided in sections 337.300 to 337.345;
- (11) Issuance of a certificate of registration or authority, permit, or license based upon a material mistake of fact;
- (12) Failure to display a valid certificate or license if so required by sections 337.300 to 337.345 or any rule

promulgated thereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) Being guilty of unethical conduct as defined in the code of conduct as adopted by the committee and filed with the secretary of state.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the department deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.

(L. 2010 H.B. 1311 & 1341)

### **337.335 Violations, penalty**

1. Any person found guilty of violating any provision of sections 337.300 to 337.345 is guilty of a class A misdemeanor and upon conviction thereof shall be punished as provided by law.

2. All fees or other compensation received for services rendered in violation of sections 337.300 to 337.345 shall be refunded.

3. The committee shall inquire as to any violation of any provision of sections 337.300 to 337.345 and may institute actions for penalties herein prescribed, and shall enforce generally the provisions of sections 337.300 to 337.345.

4. Any person, organization, association or corporation who reports or provides information to the committee or the division under sections 337.300 to 337.345 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

5. Upon application by the committee the attorney general may on behalf of the committee request that a court of competent jurisdiction grant an injunction, restraining order, or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit, or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit, or license issued under sections 337.300 to 337.345 upon a showing that the holder presents a substantial probability of serious harm to the health, safety, or welfare of any resident of this state or client or patient of the licensee.

6. Any action brought under the provisions of this section shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

7. Any action brought under this section may be in addition to or in lieu of any penalty provided by sections 337.300 to 337.345 and may be brought concurrently with other actions to enforce sections 337.300 to 337.345.

(L. 2010 H.B. 1311 & 1341)

### **337.340. Fees — collection and deposit.**

All fees authorized under sections 337.300 to 337.345\* shall be collected by the director of the division of professional registration and shall be transmitted to the department of revenue for deposit in the state treasury to the credit of the state committee of psychologists fund.

(L. 2010 H.B. 1311 & 1341)

*\*Section 337.345 was repealed by H.B. 1563, 2012.*

### **337.347. Reimbursement and billing for provisionally and temporary licensed analysts.**

For reimbursement and billing purposes of section 376.1224, services provided by a provisionally licensed assistant behavior analyst, a provisionally licensed behavior analyst, or a temporary licensed behavior analyst shall be billed by the supervising licensed behavior analyst.

(L. 2012 H.B. 1563, A.L. 2018 S.B. 975 & 1024 Revision)

**CODE OF STATE  
REGULATIONS  
DIVISION 2063**



**Title 20—DEPARTMENT OF COMMERCE AND  
INSURANCE  
Division 2063—Behavior Analyst Advisory Board  
Chapter 1—General Rules**

**20 CSR 2063-1.005 Behavior Analyst Advisory Board**

*PURPOSE: Pursuant to section 337.310, RSMo, this rule outlines policies and procedures for the Behavior Analyst Advisory Board.*

(1) The purpose of the board is to regulate the practice of behavior analysis concerning the health, safety, and welfare of the inhabitants of this state; to protect the property of the inhabitants of this state from damage or destruction through the dangerous, dishonest, incompetent, or unlawful practice of behavior analysis; and to implement and sustain a system for the examination and regulation of licensed behavior analysts and assistant behavior analysts in this state.

(2) The board shall meet at least quarterly. Additional meetings may be held at the discretion of the board; however, the board shall inform the division of those meetings and the notice of the meeting will be posted in compliance with Chapter 610, RSMo.

(3) Each year, the board shall elect a chair and vice-chair. The chair presides at meetings and works with the executive director on coordinating the board's affairs. If the chair is unable to attend a meeting, the vice-chair shall preside at the meeting.

(4) The board shall act through its executive director who is appointed by the director of the Division of Professional Registration. The executive director shall be responsible for keeping the minutes of board proceedings and perform other duties as requested by the board.

(5) A quorum of the board shall consist of a majority of its members.

(6) Board meetings will generally consist of reviewing applications, interviewing applicants, reviewing complaints and inquiries, determining disciplinary actions regarding licensed behavior analysts or assistant behavior analysts, making recommendations to staff concerning the conduct and management of board affairs, and other board matters.

(7) Unless otherwise provided by statute or regulation, the board shall be generally guided by and conduct its meetings according to *Robert's Rules of Order*.

(8) Any person requiring information, an application, or complaint form involving the practice of behavior analysis as regulated by the board may contact the board.

*AUTHORITY: sections 337.305 and 337.310, RSMo Supp. 2010.\* Original rule filed Nov. 30, 2010, effective May 30, 2011.*

*\*Original authority: 337.305, RSMo 2010 and 337.310, RSMo 2010.*

**20 CSR 2063-1.010 Definitions**

*PURPOSE: This rule establishes various definitions and terms used in 20 CSR 2063.*

(1) Applicant—An individual applying for licensure as a behavior analyst or assistant behavior analyst.

(2) Certifying entity—Behavior Analyst Certification Board (BACB)®.

(3) Committee—State Committee of Psychologists as established in section 337.050, RSMo.

(4) Division—Division of Professional Registration.

(5) Department—Department of Commerce and Insurance.

(6) Family Care Safety Registry—The registry established by the Missouri Department of Health and Senior Services pursuant to section 210.903, RSMo.

*AUTHORITY: section 337.310, RSMo 2016.\*Emergency rule filed Nov. 30, 2010, effective Dec. 10, 2010, expired June 7, 2011. Original rule filed Nov. 30, 2010, effective May 30, 2011. Non-substantive change filed July 30, 2019, published Sept. 30, 2019. Amended: Filed Aug. 17, 2020, effective Feb. 28, 2021.*

*\*Original authority: 337.310, RSMo 2010.*

**20 CSR 2063-1.015 Fees**

*PURPOSE: This rule establishes and fixes the various fees and charges authorized by Chapter 337, RSMo.*

(1) The following fees are established for the Behavior Analyst Advisory Board and are payable to the State Committee of Psychologists:

|  |       |
|--|-------|
| (A) Application Fee for Behavior Analyst .....               | \$150 |
| (B) Application Fee for Assistant Behavior Analyst.....      | \$150 |
| (C) Biennial Renewal Fee.....                                | \$150 |
| (D) Delinquency Fee (in addition to the Renewal Fee) .....   | \$ 50 |
| (E) Replacement License Fee .....                            | \$ 10 |
| (F) Inactive Renewal Fee .....                               | \$ 50 |
| (G) Inactive Reactivation Fee (section 337.320.8, RSMo)..... | \$100 |



(H) Insufficient Check Fee .....\$ 25  
(I) Verification of License Fee .....\$ 25

(2) All fees are nonrefundable.

(3) The provisions of this rule are declared severable. If any fee fixed by this rule is held invalid by a court of competent jurisdiction or by the Administrative Hearing Commission, the remaining provisions of this rule shall remain in full force and effect, unless otherwise determined by a court of competent jurisdiction or by the Administrative Hearing Commission.

*AUTHORITY: sections 337.310 and 337.340, RSMo 2016, and sections 337.315 and 337.320, RSMo Supp. 2020.\* Emergency rule filed Nov. 30, 2010, effective Dec. 10, 2010, expired June 7, 2011. Original rule filed Nov. 30, 2010, effective May 30, 2011. Amended: Filed May 22, 2013, effective Nov. 30, 2013. Amended: Filed Sept. 16, 2020, effective March 30, 2021.*

*\*Original authority: 337.310, RSMo 2010, amended 2012; 337.315, RSMo 2010, amended 2012, 2018; 337.320, RSMo 2010, amended 2018; and 337.340, RSMo 2010.*

## **20 CSR 2063-1.020 Policy for Handling Release of Public Records**

*PURPOSE: This rule sets forth the board's written policy in compliance with sections 610.010–610.030, RSMo, regarding the release of information on any meeting, record, or vote of the board.*

(1) The Behavior Analyst Advisory Board is a public governmental body as defined in Chapter 610, RSMo, and adopts the following as its written policy for compliance with the provisions of that chapter. This policy is open to public inspection and implements the provisions of Chapter 610, RSMo, regarding the release of information of any meeting, record, or vote of the board which is not closed pursuant to the provisions of Chapter 610, RSMo.

(2) All public records of the Behavior Analyst Advisory Board shall be open for inspection and copying by any member of the general public during normal business hours (8:00 a.m. to 5:00 p.m., Monday through Friday, holidays excepted) upon a minimum of a three (3)-day notice and appointment except for those records closed pursuant to section 610.021, RSMo. All public meetings of the Behavior Analyst Advisory Board not closed pursuant to the provisions of section 610.021, RSMo, will be open to any member of the public.

(3) The Behavior Analyst Advisory Board establishes the executive director of the board or his/her authorized representative as the custodian of its records as required

by section 610.023, RSMo. The executive director or his/her authorized representative is responsible for the maintenance of the board's records and is responsible for responding to requests for access to public records.

(4) Whenever a request for inspection of public records is made and the individual inspecting the records requests copies of the records, the board may charge a reasonable fee for the cost for inspecting and copying the records. The fees charged by the board shall be as follows:

(A) A fee for copying public records shall not exceed the actual cost of the document search and duplication;

(B) The board may require payment for the fees prior to making the copies; and

(C) Fees collected shall be remitted to the director of revenue for deposit to the credit of the State Committee of Psychologists' Fund.

(5) Whenever a request for access to public records is made and the custodian believes that access is not required under the provisions of Chapter 610, RSMo, the custodian shall consult with the Office of the Attorney General before making a determination whether to deny access to the records. In the event that contact by the custodian with the Office of the Attorney General is not practicable or is impossible, the custodian may make a decision whether to deny access. However, in those events, the custodian shall consult with the Office of the Attorney General concerning the decision within five (5) working days of the decision. Whenever the decision is made to deny access, the custodian will comply with the requirements in section 610.023, RSMo, concerning informing the individual requesting access to the records. Whenever the custodian denies access to the records, the custodian shall supply to members of the board copies of the written response conveying the denial to the requesting individual. At the next meeting of the board, the board shall either affirm the decision of the custodian or reverse the decision of the custodian. In the event that the board decides to reverse the decision of the custodian, the board shall direct the custodian to so advise the person requesting access to the information and supply the access to the information during regular business hours at the convenience of the requesting party.

(6) The custodian shall maintain a file which will retain copies of all written requests for access to records and responses to these requests through the current audit period. The file shall be maintained as a public record of the board open for inspection by any member of the general public during regular business hours.

*AUTHORITY: section 337.310, RSMo Supp. 2010 and sections 610.010–610.030, RSMo 2000 and Supp. 2010.\*Original rule filed Nov. 30, 2010, effective May 30, 2011.*

*\*Original authority: 337.310, RSMo 2010 and 610.010–610.030, see RSMo 2000 and RSMo Supp. 2010.*

## **Title 20—DEPARTMENT OF COMMERCE AND INSURANCE**

### **Division 2063—Behavior Analyst Advisory Board Chapter 2—Licensure Requirements**

#### **20 CSR 2063-2.005 Application for Licensure**

*PURPOSE: This rule outlines the procedures to apply for licensure, provisional license, and temporary permits for behavior analysts and assistant behavior analysts.*

(1) Applications for licensure pursuant to section 337.315, RSMo, shall be submitted on the form which may be obtained by contacting the Behavior Analyst Advisory Board.

#### **(2) Behavior Analyst License.**

(A) Applicants applying for licensure as a behavior analyst shall submit—

1. A completed application for licensure which is typewritten or printed in black ink, signed, and notarized;

2. The appropriate licensure fee pursuant to 20 CSR 2063-1.015;

3. One (1) recent photograph, pursuant to section 337.315.1, RSMo, of the applicant's head and shoulders (commonly known as passport style) that fairly depicts the applicant's appearance;

4. Proof of submission of fingerprints to the Missouri State Highway Patrol's approved vendor for both a Missouri State Highway Patrol and Federal Bureau of Investigation (FBI) fingerprint background check. Any fees due for fingerprint background checks shall be paid by the applicant;

5. Proof of having passed an examination and been certified as a board-certified behavior analyst from a certifying entity as defined pursuant to 20 CSR 2063-1.010;

6. Proof of active status as a board-certified behavior analyst; and

7. Verification of licensure in any other state in which the applicant holds a license as a behavior analyst. Verification of licensure must be received by the board directly from the issuing state agency.

#### **(3) Assistant Behavior Analyst License.**

(A) Applicants applying for licensure as an assistant behavior analyst shall submit—

1. A completed application for licensure which is typewritten or printed in black ink, signed, and notarized;

2. The appropriate licensure fee pursuant to 20 CSR 2063-1.015;

3. One (1) recent photograph, pursuant to section 337.315.1, RSMo, of the applicant's head and

shoulders (commonly known as passport style) that fairly depicts the applicant's appearance;

4. Proof of submission of fingerprints to the Missouri State Highway Patrol's approved vendor for both a Missouri State Highway Patrol and Federal Bureau of Investigation (FBI) fingerprint background check. Any fees due for fingerprint background checks shall be paid by the applicant;

5. Proof of having passed an examination and been certified as a board-certified assistant behavior analyst from a certifying entity as defined pursuant to 20 CSR 2063-1.010;

6. Proof of active status as a board-certified assistant behavior analyst;

7. Verification of licensure in any other state in which the applicant holds a license as an assistant behavior analyst. Verification of licensure must be received by the board directly from the issuing state agency; and

8. Proof the applicant will be directly supervised by a licensed behavior analyst on a form provided by the board.

#### **(4) Temporary License.**

(A) Applicants who are licensed in another state requesting a temporary license shall—

1. Meet the respective requirements of section (2) or (3) of this rule;

2. Submit a copy of a valid license issued in another state; and

3. Have no disqualifying criminal history appear on the Family Care Safety Registry.

(B) Temporary licenses shall expire upon issuance of a permanent license or denial of the application but no later than ninety (90) days from issuance of the temporary license.

(C) Holders of a temporary license requesting an extension shall submit a written request to the committee. As provided by section 337.315.4, RSMo, the temporary license may be extended one (1) time by the committee.

#### **(5) Temporary Courtesy License for Nonresident Military Spouses.**

(A) The board shall grant a temporary courtesy license to practice behavior analysis without examination to the "nonresident military spouse" as defined in section 324.008.1, RSMo, who provides the board office the following:

1. A completed application form;

2. A non-refundable application fee, as established by the board pursuant to rule, made payable to the board;

3. Verification sent directly to the board office from the state, district, or territory from where the applicant holds a current and active license verifying that the applicant holds a current and active license;

4. Proof that the applicant has been engaged in active practice in the state, district, or territory of the

United States in which the applicant is currently licensed for at least two (2) years in the five (5) years immediately preceding this application;

5. Verification sent directly to the board office from each state, district, or territory of the United States in which the applicant has ever been licensed verifying that—

A. The applicant is, or was at the time of licensure, in good standing;

B. The applicant has not committed an act in any jurisdiction where the applicant has or had a license that would have constituted grounds for the refusal, suspension, or revocation of a license or certificate to practice at the time the act was committed; and

C. The applicant has not been disciplined by a licensing or credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding by a licensing or credentialing entity in another jurisdiction;

6. If the board is unable to determine if the licensing requirements of the state, district, or territory in which the applicant is currently licensed are equivalent to Missouri's licensing requirements, the applicant shall submit documentation regarding the licensing requirements equivalency;

7. Such additional information as the board may request to determine eligibility for a temporary courtesy license; and

8. Temporary licenses shall expire upon issuance of a permanent license or denial of the application but no later than one hundred eighty (180) days from issuance of the temporary license.

(6) Provisional License—Behavior Analyst and Assistant Behavior Analyst.

(A) Applicants for provisional licensure shall submit—

1. A completed application for licensure which is typewritten or printed in black ink, signed, and notarized;

2. The appropriate licensure fee pursuant to 20 CSR 2063-1.015;

3. One (1) recent photograph, pursuant to section 337.315.1, RSMo, of the applicant's head and shoulders (commonly known as passport style) that fairly depicts the applicant's appearance;

4. Proof of submission of fingerprints to the Missouri State Highway Patrol's approved vendor for both a Missouri State Highway Patrol and FBI fingerprint background check. Any fees due for fingerprint background checks shall be paid by the applicant; and

5. Proof the applicant will be directly supervised by a licensed behavior analyst on a form provided by the board.

(7) The applicant shall be informed in writing of the decision regarding the application for licensure.

(8) The board or committee may delegate the preliminary

review of license applications to the executive director.

*AUTHORITY: sections 324.008 and 337.315, RSMo Supp. 2012.\* Emergency rule filed Nov. 30, 2010, effective Dec. 10, 2010, expired June 7, 2011. Original rule filed Nov. 30, 2010, effective May 30, 2011. Amended: Filed May 22, 2013, effective Nov. 30, 2013.*

*\*Original authority: 324.008, RSMo 2011 and 337.315, RSMo 2010, amended 2012.*

## **20 CSR 2063-2.010 Renewal of License, Inactive License, and Reactivation of License**

*PURPOSE: This rule establishes the obligation of licensees for renewal of their licenses.*

### **(1) Renewal of License.**

(A) The required renewal information, renewal fee, and information related to the behavior analyst or assistant behavior analyst's practice and demographics for the purpose of collecting workforce data shall be submitted prior to the expiration date of the license.

(B) Failure of a licensee to receive the notice to renew the license shall not excuse the licensee from the requirement of section 337.320, RSMo, to renew the license.

(C) Any licensee who fails to renew the license within the sixty- (60-) day period set forth in section 337.320.3., RSMo, shall not perform any act for which a license is required.

(D) Any licensed behavior analyst who fails to renew his/her license by October 31 of each odd-numbered year or any assistant behavior analyst who fails to renew his/her license by November 30 of each odd-numbered year and, within two (2) years of the registration renewal date, wishes to restore his/her license, shall—

1. Submit a completed application;

2. Pay the renewal fee and delinquent fee; and

3. Submit proof of active certification and fulfillment of all requirements for renewal and recertification with the certifying entity as defined pursuant to 20 CSR 2063-1.010.

### **(2) Inactive License.**

(A) Licensees who request to be classified as inactive pursuant to section 337.320.7., RSMo, shall—

1. Submit a completed application on a form provided by the board; and

2. Pay the inactive renewal fee as provided in 20 CSR 2063-1.015.

(B) Holders of an inactive license need not complete the continuing education requirement pursuant to section 337.320.7., RSMo.

(C) Holders of an Inactive License.

1. Failure of a licensee to receive the notice and application to renew the inactive license shall not excuse the licensee from the requirement of section 337.315,

RSMo, to renew the license.

2. Any licensee who fails to renew the inactive license within the sixty- (60-) day period set forth in section 337.320.3., RSMo, cannot practice, and the license shall lapse.

(3) Reactivation of License.

(A) Individuals who request to reactivate the inactive license shall—

1. Submit a complete application on a form provided by the board;

2. Pay the reactivation fee as provided in 20 CSR 2063-1.015; and

3. Submit proof of current certification from a certifying body as established in 20 CSR 2063-1.010.

*AUTHORITY: sections 324.001, 337.030, and 337.320, RSMo Supp. 2020.\* Original rule filed Nov. 30, 2010, effective May 30, 2011. Amended: Filed Oct. 27, 2020, effective April 30, 2021.*

*\*Original authority: 324.001, RSMo 2008, amended 2009, 2016, 2018; 337.030, RSMo 1977, amended 1981, 1989, 1996, 2003, 2018; and 337.320, RSMo 2010, amended 2018.*

**20 CSR 2063-2.015 Notification of Change of Address**

*PURPOSE: This rule establishes the obligation of licensees to inform the Behavior Analyst Advisory Board of their changes of address.*

(1) Within thirty (30) days of the effective date of the change, a licensee must inform the board of all changes in the mailing address as it appears on the licensee's license by contacting the Behavior Analyst Advisory Board in writing.

*AUTHORITY: section 337.310, RSMo Supp. 2010.\* Emergency rule filed Nov. 30, 2010, effective Dec. 10, 2010, expired June 7, 2011. Original rule filed Nov. 30, 2010, effective May 30, 2011.*

*\*Original authority: 337.310, RSMo 2010.*

**20 CSR 2063-2.020 Replacement of License**

*PURPOSE: This rule will set out the manner by which a licensee can obtain a replacement or duplicate license certificate.*

(1) A licensee whose license is lost, destroyed, or mutilated or who requires replacement license as a result of an incorrect address or name change, or who requires additional certificates may obtain a duplicate certificate, upon receipt of a statement indicating the need for the duplicate and the required fee as established by the committee.

*AUTHORITY: section 337.320.5, RSMo Supp. 2012.\* Original rule filed May 22, 2013, effective Nov. 30, 2013.*

*\*Original authority: 337.320, RSMo 2010.*

**Title 20—DEPARTMENT OF COMMERCE AND INSURANCE**

**Division 2063—Behavior Analyst Advisory Board  
Chapter 3—Certifying Entities**

**20 CSR 2063-3.005 Certifying Entities**

*PURPOSE: This rule establishes the certifying entities acceptable to the board.*

(1) A certifying entity shall be accredited to certify practitioners of applied behavior analysis by a nationally-recognized agency including but not limited to:

- (A) National Commission for Certifying Agencies; or
- (B) American National Standards Institute.

*AUTHORITY: section 337.310.1, RSMo Supp. 2010.\* Emergency rule filed Nov. 30, 2010, effective Dec. 10, 2010, expired June 7, 2011. Original rule filed Nov. 30, 2010, effective May 30, 2011.*

*\*Original authority: 337.310, RSMo 2010.*

**Title 20—DEPARTMENT OF COMMERCE AND INSURANCE**

**Division 2063—Behavior Analyst Advisory Board  
Chapter 4—Education and Training Requirements**

**20 CSR 2063-4.005 Education and Training Requirements**

*PURPOSE: This rule establishes the education and training requirements for licensed behavior analysts and licensed assistant behavior analysts pursuant to section 337.310, RSMo.*

(1) Applicants for licensure as a behavior analyst or assistant behavior analyst shall meet the education and training requirements and supervised clinical practicum experience required for eligibility to sit for the certification examination for their respective level offered by the certifying entity as defined in 20 CSR 2063-1.010.

*AUTHORITY: section 337.310.1(3), RSMo Supp. 2010.\* Emergency rule filed Nov. 30, 2010, effective Dec. 10, 2010, expired June 7, 2011. Original rule filed Nov. 30, 2010, effective May 30, 2011.*

*\*Original authority: 337.310, RSMo 2010.*

## **20 CSR 2063-4.010 Continuing Education Requirements**

*PURPOSE: This rule establishes continuing education requirements for licensed behavior analysts and licensed assistant behavior analysts.*

(1) Any licensee applying for the renewal of a behavior analyst license or assistant behavior analyst license shall meet the continuing education requirements for his/her respective level as required by the certifying entity, as defined in 20 CSR 2063-1.010, in order to maintain active certification.

*AUTHORITY: section 337.310.2, RSMo Supp. 2010.\* Original rule filed Nov. 30, 2010, effective May 30, 2011.*

*\*Original authority: 337.310.2, RSMo 2010.*

### **Title 20—DEPARTMENT OF COMMERCE AND INSURANCE**

#### **Division 2063—Behavior Analyst Advisory Board Chapter 5—Supervision**

## **20 CSR 2063-5.005 Supervision of Assistant Behavior Analysts**

*PURPOSE: This rule establishes the characteristics of supervision for assistant behavior analysts.*

(1) An assistant behavior analyst shall assist a behavior analyst in the delivery of applied behavior analysis in compliance with all state and federal statutes, regulations, and rules.

(2) The assistant behavior analyst may only perform services under the direct supervision of a behavior analyst as set forth in this rule.

(A) The manner of supervision shall depend on the treatment setting, patient/client caseload, and the competency of the assistant behavior analyst as determined by the supervising behavior analyst. At a minimum, supervision shall include consultation of the assistant behavior analyst with the supervising behavior analyst prior to the initiation of any patient's/client's treatment plan and modification of treatment plan.

(B) More frequent face-to-face supervision may be necessary as determined by the behavior analyst or assistant behavior analyst dependent on the level of expertise displayed by the assistant behavior analyst, the practice setting, and/or the complexity of the patient/client caseload.

(C) Supervision shall be an interactive process between the behavior analyst and assistant behavior analyst. It shall be more than peer review or co-signature. The interactive process shall include but is not limited to the patient/client assessment, reassessment, treatment plan, intervention, discontinuation of intervention, and/or

treatment plan.

(D) The supervising behavior analyst or the supervisor's designee must be available for immediate consultation with the assistant behavior analyst. The supervisor need not be physically present or on the premises at all times.

(3) The supervising behavior analyst has the overall responsibility for providing the necessary supervision to protect the health and welfare of the patient/client receiving treatment from an assistant behavior analyst. The supervising behavior analyst shall—

(A) Be licensed by the board as a behavior analyst who is certified by the certifying entity;

(B) As of January 1, 2012, have a minimum of one (1)-year experience as a licensed behavior analyst. Prior to January 1, 2012, the supervising behavior analyst shall have a minimum of one (1) year of certification as a certified behavior analyst and shall obtain licensure prior to January 1, 2012;

(C) Not be under restriction or discipline from any licensing board or jurisdiction;

(D) Not have more than ten (10) full-time equivalent (FTE) assistant behavior analysts under his/her supervision at one (1) time without prior approval by the board;

(E) Provide at least two (2) hours of face-to-face, direct supervision for every eighty (80) hours worked. Supervision in a group may be for not more than one (1) hour for each one hundred sixty (160) hours worked;

(F) Be responsible for all referrals of the patient/client;

(G) Be responsible for completing the patient's evaluation/assessment. The assistant behavior analyst may contribute to the screening and/or evaluation process by gathering data, administering standardized tests, and reporting observations. The assistant behavior analyst may not evaluate independently or initiate treatment before the supervising behavior analyst's evaluation/assessment;

(H) Be responsible for developing and modifying the patient's treatment plan. The treatment plan must include goals, interventions, frequency, and duration of treatment. The assistant behavior analyst may contribute to the preparation, implementation, and documentation of the treatment plan. The supervising behavior analyst shall be responsible for the outcome of the treatment plan and assigning of appropriate intervention plans to the assistant behavior analyst within the competency level of the assistant behavior analyst;

(I) Be responsible for developing the patient's discharge plan. The assistant behavior analyst may contribute to the preparation, implementation, and documentation of the discharge plan. The supervising behavior analyst shall be responsible for the outcome of the discharge plan and assigning of appropriate tasks to the assistant behavior analyst within the competency level of the assistant behavior analyst;

(J) Ensure that all patient/client documentation becomes a part of the permanent record; and

(K) Conduct at least one (1) on-site observation per client per month.

(4) The supervising behavior analyst has the overall responsibility for providing the necessary supervision to protect the health and welfare of the patient/client receiving treatment from an assistant behavior analyst. However, this does not absolve the assistant behavior analyst from his/her professional responsibilities. The assistant behavior analyst shall exercise sound judgment and provide adequate care in the performance of duties. The assistant behavior analyst shall—

(A) Not initiate any patient/client treatment program or modification of said program until the behavior analyst has evaluated, established a treatment plan, and consulted with the behavior analyst;

(B) Not perform an evaluation/assessment, but may contribute to the screening and/or evaluation process by gathering data, administering standardized tests, and reporting observations;

(C) Not analyze or interpret evaluation data;

(D) Track the need for reassessment and report changes in status that might warrant reassessment or referral;

(E) Immediately suspend any treatment intervention that appears harmful to the patient/client and immediately notify the behavior analyst; and

(F) Ensure that all patient/client documentation prepared by the assistant behavior analyst becomes a part of the permanent record.

(5) The supervisor shall ensure that the assistant behavior analyst provides applied behavior analysis as defined in section 337.300, RSMo, appropriate to and consistent with his/her education, training, and experience.

*AUTHORITY: section 337.310.1, RSMo Supp. 2010.\* Emergency rule filed Nov. 30, 2010, effective Dec. 10, 2010, expired June 7, 2011. Original rule filed Nov. 30, 2010, effective May 30, 2011.*

*\*Original authority: 337.310, RSMo 2010.*

## **Title 20—DEPARTMENT OF COMMERCE AND INSURANCE**

### **Division 2063—Behavior Analyst Advisory Board Chapter 6—Standards of Practice**

#### **20 CSR 2063-6.005 Ethical Rules of Conduct**

*PURPOSE: This rule complies with section 337.310, RSMo which allows the committee through the division to promulgate ethical principles governing the practice of behavior analysis.*

#### **(1) General Principles.**

(A) Purpose. The ethical rules of conduct constitute the standards against which the required professional conduct of behavior analysts and assistant behavior analysts is measured.

(B) Scope. Behavior analysts and assistant behavior analysts shall be governed by these ethical rules of conduct. These ethical rules of conduct shall apply to the conduct of all licensees and applicants, including the applicant's conduct during the period of education, training, and employment which is required for licensure. The terms behavior analyst and assistant behavior analyst, as used within these ethical rules of conduct, shall be interpreted accordingly whenever applied behavior analysis is being provided in any context. These rules of ethical conduct apply to teaching, publishing, or researching regarding behavior analysis only where there is a behavior analysis clinical component to such teaching, publishing, or researching; where there are behavior analysis clinical services being provided as a part of the teaching, publishing, or researching; and where there is interaction with behavior analysis clients in teaching, publishing, or researching behavioral analysis.

(C) Responsibility for Own Actions. Behavior analysts and assistant behavior analysts, when functioning as a licensed behavior analyst or assistant behavior analyst, shall be fully responsible for his or her own professional decisions and professional actions.

(D) Violations. A violation of these ethical rules of conduct constitutes unprofessional conduct and is sufficient reason for disciplinary action or denial of original licensure, reinstatement, or renewal of licensure.

(E) Aids to Interpretation. *The Ethical Principles of Psychologists, Code of Conduct, Standards of Providers of Psychological Services and Specialty Guidelines for the Delivery of Psychological Services*, (publication date August, 1990) promulgated by the American Psychological Association and the *Code of Conduct* (publication date August, 1990) promulgated by the Association of State and Provincial Psychology Boards, shall be used as an aid in resolving ambiguities which may arise in the interpretation of the ethical rules of conduct, except that these ethical rules of conduct shall prevail whenever any conflict exists between these rules and any professional association standard. *The Ethical Principles of Psychologists and Code of Conduct, Standards of Providers of Psychological Services and Specialty Guidelines for the Delivery of Psychological Services* can be obtained from the American Psychological Association, 750 First Street, NE, Washington, DC 20002-4242, or by calling (800) 374-2721. *The Code of Conduct* can be obtained by contacting the Association of State and Provincial Psychology Boards, PO Box 241245, Montgomery, AL 36124-1245 or by calling (334) 832-4580.

## (2) Definitions.

(A) Client—The term client as used here is broadly applicable to whomever the behavior analyst or assistant behavior analyst provides services whether an individual person (service recipient), parent or guardian of a service recipient, an institutional representative, a public or private agency, a firm or corporation.

(B) Confidential information—means information revealed to a behavior analyst or assistant behavior analyst or otherwise obtained by a behavior analyst or assistant behavior analyst, where there is a reasonable expectation that because of the relationship between the individual(s) and the behavior analyst or assistant behavior analyst, or the circumstances under which the information was revealed or obtained, the information shall not be disclosed by the behavior analyst or assistant behavior analyst without the informed written consent of the individual(s). When a corporation or other organization is the client, rules of confidentiality apply to information pertaining to the organization, including personal information about individuals when obtained in the proper course of that contract. That information about individuals is subject to confidential control of the organization, not of the individual, and can be made available to the organization, unless there is reasonable expectation by that individual that information was obtained in a separate professional relationship with that individual and is therefore subject to confidentiality requirements.

(C) Court order—means the written or oral communication of a member of the judiciary, or other court magistrate or administrator, if that authority has been lawfully delegated to that magistrate or administrator.

(D) Licensed—means licensed, certified, or any other term when such term identifies a person whose professional behavior is subject to regulation by the committee or board.

(E) Professional relationship—means a mutually agreed upon relationship between a behavior analyst and assistant behavior analyst and a client or any combination of two or more such individuals or entities for the purpose of the client obtaining the behavior analyst's and assistant behavior analyst's professional expertise.

(F) Professional service—means all actions of the behavior analyst and assistant behavior analyst in the context of a professional relationship with a client.

(G) Supervision, supervisor, and supervisee—means any and all actions of a person (supervisor) overseeing a person (supervisee) regarding the provision of behavior analysis services.

## (3) Competence.

(A) Limits on Practice. Behavior analysts and assistant behavior analysts shall provide services, teach, and conduct research only within the boundaries of their competence, based on their education, training,

supervised experience, or appropriate professional experience. If important aspects of the client's problems fall outside the boundaries of competency, then the behavior analyst and assistant behavior analyst shall assist his or her client in obtaining additional professional consultation.

(B) Reliance on Scientific Knowledge. Behavior analysts and assistant behavior analysts shall rely on scientifically and professionally derived knowledge when making scientific or professional judgments in providing professional service, or when engaging in scholarly or professional endeavors.

(C) Maintaining Competency. Behavior analysts and assistant behavior analysts shall maintain current competency in the areas in which they practice, through continuing education, consultation, other training, or any combination of these, in conformance with current standards of scientific and professional knowledge.

(D) Adding New Services and Techniques. Behavior analysts and assistant behavior analysts shall provide services, teach, or conduct research in new areas or involving new techniques only after first undertaking appropriate study, training, supervision, and/or consultation from persons who are competent in those areas or techniques.

(E) Accurate Representation. Behavior analysts and assistant behavior analysts shall accurately represent their areas of competence, education, training, experience, and professional affiliations to the committee, the board, the public, and colleagues.

(F) Professional Development. Behavior analysts and assistant behavior analysts who engage in assessment, therapy, teaching, research, organizational consulting, or other professional activities shall maintain a reasonable level of awareness of current scientific and professional information in their fields of activity, and undertake ongoing efforts to maintain competence in the skills they use by reading the appropriate literature, attending conferences and conventions, participating in workshops, or maintaining Behavior Analyst Certification Board certification.

(G) Integrity. If behavior analysts' and assistant behavior analysts' ethical responsibilities conflict with law, behavior analysts and assistant behavior analysts shall make known their commitment to these rules and take steps to resolve the conflict in a responsible manner in accordance with law.

## (H) Professional and Scientific Relationships.

1. Behavior analysts and assistant behavior analysts shall provide behavioral assessment, therapeutic, teaching, research, supervisory, consultative, or other behavior analytic services only in the context of a defined, professional, or scientific relationship or role.

2. When behavior analysts and assistant behavior analysts provide assessment, evaluation, treatment, supervision, teaching, consultation, research, or other behavior analytic services to an individual, a

group, or an organization, they shall use language that is fully understandable to the recipient of those services. They shall provide appropriate information prior to service delivery about the nature of such services and appropriate information later about results and conclusions.

3. Where differences of age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status significantly affect behavior analysts' and assistant behavior analysts' work concerning particular individuals or groups, behavior analysts and assistant behavior analysts shall obtain the training, experience, consultation, or supervision necessary to ensure the competence of their services, or they make appropriate referrals.

4. In their work-related activities, behavior analysts and assistant behavior analysts shall not engage in discrimination against individuals or groups based on age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, socioeconomic status, or any basis proscribed by law.

5. Behavior analysts and assistant behavior analysts shall not knowingly engage in behavior that is harassing or demeaning to persons with whom they interact in their work based on factors such as those persons' age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status, in accordance with law.

6. Behavior analysts and assistant behavior analysts shall recognize that their personal problems and conflicts may interfere with their effectiveness. Behavior analysts and assistant behavior analysts shall refrain from providing services when their personal circumstances may compromise delivering services to the best of their abilities.

#### (4) Maintenance and Retention of Records.

(A) The behavior analyst and assistant behavior analyst rendering professional services to a client, or services billed to a third party payer, shall maintain professional records that include:

1. Name of the client and other identifying information such as address, telephone number, age, and sex;

2. The presenting problem(s) and diagnosis (if applicable);

3. Any assessment including test results or other evaluative results obtained and any basic test data from which they were derived;

4. The date and description of each contact or service provided or pertaining to the client;

5. The nature, type, and goals of any applied behavior analysis interventions;

6. The fee arrangement and documentation of discussion with the client(s) prior to initiation of services;

7. A copy of all tests or other evaluative reports prepared as part of the professional relationship;

8. Notation and results of formal consults with

other providers;

9. Notation of referrals given or recommended to the client;

10. Any releases executed by the client;

11. Data relating to financial transactions between the behavior analyst and assistant behavior analyst and client, including fees assessed and collected;

12. Written informed consent must be obtained concerning all aspects of services including assessment and therapy;

13. An assistant behavior analyst must include on the informed consent the fact that the licensee is working under the supervision of a licensed behavior analyst. The informed consent form must identify the supervising behavior analyst; and

14. Entries in the records must be made within ten (10) days following each consultation or rendition of service. Entries that are made after the date of service must indicate the date entries are made, as well as the date of service.

(B) Behavior analysts shall create, maintain, disseminate, store, retain, and dispose of records and data relating to their research, practice, and other work in accordance with applicable laws or regulations.

(C) Behavior analysts and assistant behavior analysts shall assure that all data entries in the professional records are maintained for a period of not fewer than five (5) years after the last date of service rendered, or not less than the time required by other regulations, if that is longer.

1. The behavior analyst shall store and dispose of written, electronic, and other records in such a manner as to ensure their confidentiality. The behavior analyst shall maintain the confidentiality of all applied behavior analysis records in the behavior analyst's possession or under the behavior analyst's control except as otherwise provided by law or pursuant to authorization of a client specifically requesting or authorizing release or disclosure of the client's applied behavior analysis records; and

2. For each person professionally supervised, the behavior analyst shall maintain, for a period of not less than five (5) years after the last date of supervision, a record of the supervisory session that shall include the type, place, and general content of the session, as well as other information required by these rules, other law, or good practice.

#### (5) Continuity of Care.

(A) The behavior analyst shall make prior arrangements for another appropriate professional(s) to be available for consultation during periods of his or her extended absences from professional availability. Behavior analysts and assistant behavior analysts shall inform the client of available emergency services for use during those times when he or she cannot be reached. These periods include, but are not limited to, after-office hours, weekends, holidays, or vacations.



(B) The behavior analyst shall make provisions for the transfer or disposal of all written or electronic records of the client in the event of the behavior analyst's or assistant behavior analyst's death or incapacitation. The arrangement for transfer or disposal shall be in writing and signed by all necessary parties.

(6) Multiple Relationships.

(A) Impaired Behavior Analyst or Assistant Behavior Analyst. Behavior analysts and assistant behavior analysts shall not undertake or continue a professional relationship with a client when the competency of the behavior analyst or assistant behavior analyst is, or could reasonably be expected to be, impaired due to mental, emotional, physiologic, pharmacologic or substance abuse conditions. If a condition develops after a professional relationship has been initiated, the behavior analyst or assistant behavior analyst shall terminate the relationship in an appropriate manner, shall notify the client in writing of the termination, and shall assist the client in obtaining services from another professional.

(B) Multiple Relationships Affecting Behavior Analyst's or Assistant Behavior Analyst's Judgment. Behavior analysts and assistant behavior analysts shall not undertake or continue a professional relationship with a client when the objectivity or competency of the behavior analyst or assistant behavior analyst is, or could reasonably be expected to be impaired because of the behavior analyst's or assistant behavior analyst's present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative, or legal relationship with the client or a relevant person associated with or related to the client. If a dual relationship develops or is discovered after the professional relationship has been initiated, the behavior analyst or assistant behavior analyst shall terminate the professional relationship in an appropriate manner, shall notify the client in writing of this termination and shall assist the client in obtaining services from another professional.

(C) Prohibited Relationships.

1. Behavior analysts and assistant behavior analysts, in interacting with any client shall not enter into a financial or other potentially exploitive relationship with any such client.

2. The behavior analyst and assistant behavior analyst, in interacting with any client shall not engage in any harassing, exploitive, seductive, or repeated comments, gestures, or physical contact of a sexual nature.

3. Prohibited exploitation in professional relationships. Behavior analysts and assistant behavior analysts shall not exploit, sexually or otherwise, his or her professional relationship with clients, supervisees, students, employees, research participants, or others.

(7) Client Welfare.

(A) Responsibility to Clients.

1. Behavior analysts and assistant behavior analysts have a responsibility to operate in the best interest of clients.

2. The behavior analyst's and assistant behavior analyst's responsibility is to all parties affected by behavioral services.

(B) Providing Explanation of Procedures.

1. The behavior analyst and assistant behavior analyst shall give a truthful, understandable, and reasonably complete account of the client's condition to the client or the parent of minor children or legal guardian. The behavior analyst or assistant behavior analyst shall keep the client fully informed as to the purpose and nature of any evaluation, treatment, or other procedures, and of the client's right to freedom of choice regarding services provided.

2. When a behavior analyst and assistant behavior analyst agree to provide services to a person or entity at the request of a third party, the behavior analyst or assistant behavior analyst shall explain and document the nature of the relationships with all individuals or organizations involved. This includes the role of the behavior analyst and assistant behavior analyst, who is the client, the probable uses of the services provided or the information obtained, and any known or probable limits to confidentiality.

(C) Interrupting or Terminating Services.

1. Behavior analysts and assistant behavior analysts shall make reasonable efforts to plan for facilitating care in the event that behavior analytic services are interrupted by factors such as the behavior analyst's or assistant behavior analyst's illness, impending death, unavailability, or relocation or by the client's relocation or financial limitations.

2. When entering into employment or contractual relationships, behavior analysts and assistant behavior analysts shall provide for orderly and appropriate resolution of responsibility for client care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the client.

3. Approving Interventions. Behavior analysts or assistant behavior analysts shall obtain the client's or legal guardian's approval in writing of the behavior intervention plan before implementing them.

4. Behavior analysts and assistant behavior analysts shall not abandon clients. Applied behavior analysis services can be terminated when it becomes reasonably clear that the client no longer needs the service, is not benefiting, or is being harmed by continued service and the behavior analyst establishes understandable and objective (i.e., measurable) criteria for the termination of the program and describes them to the client or client-surrogate. The relationship shall be terminated when the established criteria for termination are attained, as in when a series of planned or revised intervention goals has been completed.

5. Prior to termination, except where precluded

by the client's conduct, behavior analysts and assistant behavior analysts shall discuss the client's views and needs, provide appropriate pre-termination services, suggest alternative service providers as appropriate, and take other reasonable steps to facilitate transfer of responsibility to another provider if the client needs one immediately.

6. Applied behavior analysis services may be terminated by the behavior analyst or assistant behavior analyst when the behavior analyst or assistant behavior analyst identifies a physical or emotional harm or threat of physical or emotional harm to himself or herself or his or her staff. The behavior analyst or assistant behavior analyst shall provide notice to the client and shall make all reasonable attempts to provide for the client's continuity of care as described in section (5) above.

(D) Unnecessary Service. The behavior analyst and assistant behavior analyst shall not exploit clients by providing unnecessary applied behavior analysis.

(E) Stereotyping. Behavior analysts and assistant behavior analysts shall not impose on the client any stereotypes of behavior, values, or roles related to age, gender, religion, race, disability, nationality, or sexual preference which would interfere with the objective provision of services to the client. Behavior analysts and assistant behavior analysts shall obtain training and experience to assure competent service or research relating to these persons.

(F) Solicitation of Business by Clients. Behavior analysts and assistant behavior analysts providing services to an individual client shall not induce that client(s) to solicit business on behalf of the behavior analyst or assistant behavior analyst.

(G) Referrals on Request. Behavior analysts and assistant behavior analysts shall make an appropriate referral to another professional when requested to do so by the client.

(H) Offering Services to Clients of Others. In deciding whether to offer services to someone already receiving similar services elsewhere, behavior analysts and assistant behavior analysts shall carefully consider the treatment issues and the potential client's welfare. Behavior analysts and assistant behavior analysts shall discuss these issues with the potential client to minimize the probable risks of confusion and conflict, and proceed with caution and sensitivity to the therapeutic issues. Behavior analysts and assistant behavior analysts shall not initiate such discussions and may only go forward with such discussions where initiated by another.

(I) Rights and Prerogatives of Clients.

1. Behavior analysts and assistant behavior analysts shall support individual rights under the law.

2. The client must be provided on request an accurate, current set of the behavior analyst's and assistant behavior analyst's credentials.

3. Permission for electronic recording of interviews, service delivery sessions, and all other settings shall be secured from clients and relevant staff.

Consent for different uses must be obtained specifically and separately.

4. Clients must be informed of their rights, and about procedures to complain about professional practices of the behavior analyst.

5. Behavior analysts and assistant behavior analysts shall comply with all requirements for criminal background checks.

(J) Clarifying expectations. Behavior analysts and assistant behavior analysts shall document that the client has been informed as to the purpose and nature of an evaluation, treatment, or educational procedure as well as reasonable alternatives in language commensurate with the individual's level of comprehension.

(K) Voluntary and mandatory procedures. Behavior analysts or assistant behavior analysts shall inform recipients as to the voluntary or mandatory nature of the assessment, treatment, educational, or training procedure. When a procedure is voluntary, behavior analysts or assistant behavior analysts shall inform the clients or student of their freedom of choice and any alternatives to participation.

(8) Welfare of Supervisees and Students. The behavior analyst shall not harass or exploit a supervisee or student in any way—sexually, financially, or otherwise. The behavior analyst as a teacher shall recognize that the primary obligation is to help others acquire knowledge and skill. The behavior analyst shall maintain high standards of scholarship by presenting applied behavior analysis information objectively, fully, and accurately. The teaching duties of the behavior analyst shall be performed on the basis of careful preparation so that the instruction is accurate, current, and scholarly.

(9) Protecting Confidentiality of Clients.

(A) Maintaining Confidentiality.

1. Behavior analysts and assistant behavior analysts have a primary obligation and shall take reasonable precautions to respect the confidentiality of those with whom they work or consult, recognizing that confidentiality may be established by law, institutional rules, or professional or scientific relationships.

2. Clients have a right to confidentiality. Unless it is not feasible or is contraindicated, the discussion of confidentiality occurs at the outset of the relationship and thereafter as new circumstances may warrant.

3. In order to minimize intrusions on privacy, behavior analysts and assistant behavior analysts shall include only information germane to the purpose for which the communication is made in written and oral reports, consultations, and the like.

4. Behavior analysts and assistant behavior analysts shall discuss confidential information obtained in clinical or consulting relationships, or evaluative data concerning patients, individual or organizational clients, students, research participants, supervisees, and employees, only for appropriate scientific or professional

purposes.

(B) Disclosure of Confidential Information. Behavior analysts and assistant behavior analysts also may disclose confidential information with the appropriate consent of the individual or organizational client (or of another legally authorized person on behalf of the client), unless prohibited by law.

(C) Disclosures Without Consent. Behavior analysts and assistant behavior analysts may disclose confidential information without the consent of the individual only as mandated by law, or where permitted by law for a valid purpose, such as 1) to provide needed professional services to the individual or organizational client, 2) to obtain appropriate professional consultations, 3) to protect the client or others from harm, 4) to obtain payment for services, or 5) to the board or the committee as requested or required by the board or the committee, in which instance disclosure is limited to the minimum that is necessary to achieve the purpose.

(D) Limited Access to Client Records. Behavior analysts and assistant behavior analysts shall limit access to client records and shall assure that all persons working under his or her authority comply with the requirements for confidentiality of client material.

(E) Disguising Confidential Information. For any confidential information used in teaching, research, or writing, behavior analysts and assistant behavior analysts shall insure that the reported material is appropriately disguised to prevent client identification.

(F) Confidentiality After Termination of Professional Relationship. Behavior analysts and assistant behavior analysts shall continue to treat client records as confidential information after the professional relationship between the behavior analyst and assistant behavior analyst and the client has ceased.

#### (10) Integrity and Representation of Title and Services.

(A) Display of License. Behavior analysts and assistant behavior analysts shall display prominently on the premises of the professional practice the behavior analyst's or assistant behavior analyst's current Missouri license to practice applied behavior analysis or carry the current license on their person when providing behavior analytic services.

(B) Use of Appropriate Title. When representing himself or herself to the public through advertisements, including telephone listings, business cards, letterhead, and other public announcements, behavior analysts and assistant behavior analysts shall use a title which accurately reflects professional education, training, and experience. This title shall be clearly presented as to denote the actual status and training of the person. Initials of titles are not appropriate for use unless authorized by sections 337.300 to 337.345, RSMo or 20 CSR 2063.

(C) Accurate Representation of Qualifications. A behavior analyst and assistant behavior analyst shall not misrepresent directly or by implication his or

her professional qualifications, such as, education, experience, or areas of competence.

(D) Accurate Representation of Affiliations. A behavior analyst and assistant behavior analyst shall not misrepresent directly or by implication his or her affiliations, or the purposes or characteristics of institutions and organizations with which the behavior analyst or assistant behavior analyst is associated.

(E) False or Misleading Information. Behavior analysts and assistant behavior analysts shall not include false or misleading information in public statements concerning applied behavior analysis services offered. Public statements include, but are not limited to, communication by means of periodical, book, list, directory, television, radio, or motion picture. They shall not contain:

1. A false, fraudulent, misleading, deceptive, or unfair statement;

2. A misrepresentation of fact or a statement likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;

3. A testimonial from a client regarding the quality of a behavior analyst's or assistant behavior analyst's services or products;

4. A statement intended or likely to create false or unjustified expectations of favorable results;

5. A statement implying unusual, unique, or one-of-a-kind abilities;

6. A statement intended or likely to appeal to a client's fears, anxieties, or emotions concerning the possible results of failure to obtain the offered services;

7. A statement concerning the comparative desirability of offered services; or

8. A statement of direct solicitation of individual clients.

(F) Accurate Representation of Services or Products. A behavior analyst and assistant behavior analyst shall not associate with or permit his or her name to be used in connection with any services or products in such a way as to misrepresent—

1. The services or products;

2. The degree of his or her responsibility for the services or products; or

3. The nature of his or her association with the services or products.

(G) Correction of Misrepresentation by Others. A behavior analyst or assistant behavior analyst shall correct others who misrepresent his or her professional qualifications or affiliations.

(H) Accurate Claims. Behavior analysts and assistant behavior analysts shall take credit only for work actually done, including publication credit.

(I) Publication Credit. Publication credit shall accurately reflect the relative contribution of the individuals involved, regardless of professional status. A student generally is listed as the principal author of any multipleauthored article based primarily on the student's thesis or dissertation. Minor contributions to publications

shall be acknowledged in footnotes or in an introductory statement.

(J) Acknowledging All Sources. Plagiarism in either written or oral form is unethical. Acknowledgment through specific citations shall be made for unpublished as well as published material that has directly influenced the research or writing.

(K) Fabrication or Falsification of Data. Behavior analysts and assistant behavior analysts shall not fabricate or falsify data. If a behavior analyst or assistant behavior analyst discovers significant errors in their data, they shall take reasonable steps to correct these errors in a correction, retraction, erratum, or other appropriate publication means.

#### (11) Remuneration.

(A) Fees, Financial Arrangements, and Terms of Consultation.

1. As early as is feasible in a professional or scientific relationship, behavior analysts and assistant behavior analysts and the client or other appropriate recipient of behavior analytic services shall reach an agreement specifying compensation and billing arrangements.

2. Behavior analysts' and assistant behavior analysts' fee practices shall be consistent with law and behavior analysts and assistant behavior analysts shall not misrepresent their fees. If limitations to services can be anticipated because of limitations in financing, this shall be discussed with the patient, client, or other appropriate recipient of services as early as is feasible.

3. Prior to the implementation of services, behavior analysts and assistant behavior analysts shall provide in writing the terms of consultation with regard to specific requirements for providing services and the responsibilities of all parties (a contract or Declaration of Professional Services).

(B) Accuracy in Reports to Those Who Pay for Services. In their reports to those who pay for services or sources of research, project, or program funding, behavior analysts and assistant behavior analysts shall accurately state the nature of the research or service provided, the fees or charges, and where applicable, the identity of the provider, the findings, and other required descriptive data.

(C) Referrals and Fees. When a behavior analyst pays, receives payment from, or divides fees with another professional other than in an employer-employee relationship, the referral shall be disclosed to the client.

(D) Improper Arrangements.

1. Behavior analysts and assistant behavior analysts shall neither derive nor solicit any form of monetary profit or personal gain as a result of his or her professional relationship with clients or immediate ex-clients as set forth in paragraph (6)(C)1. of this rule, beyond the payment of fees for applied behavior analysis services rendered. However, unsolicited token

gifts from a client are permissible.

2. A behavior analyst and assistant behavior analyst shall not use his or her professional relationship with clients, or immediate ex-clients as set forth in paragraph (6)(C)1. of this rule, to derive personal gain, other than through fees for professional services, for himself or herself, or for any other person, or for any organization from the sale or promotion of a product or service.

3. Behavior analysts and assistant behavior analysts shall neither give nor receive any commission, rebate, or other form of remuneration for referral of a client for professional services.

4. Behavior analysts and assistant behavior analysts shall not bill for services that are not rendered. However, he or she may bill for missed appointments which the client did not cancel in advance, if this is part of the financial arrangements made in accordance with paragraph (11)(A)1. of this rule.

(E) Third-Party Requests for Services.

1. When behavior analysts and assistant behavior analysts agree to provide services to a person or entity at the request of a third party, the behavior analyst and assistant behavior analyst shall clarify to the extent feasible, at the outset of the service, the nature of the relationship with each party. This clarification includes the role of the behavior analyst and assistant behavior analyst (such as therapist, organizational consultant, or expert witness), the probable uses of the services provided or the information obtained, and the fact that there may be limits to confidentiality.

2. If there is a foreseeable risk of behavior analysts and assistant behavior analysts being called upon to perform conflicting roles because of the involvement of a third party, the behavior analyst and assistant behavior analyst shall clarify the nature and direction of his or her responsibilities, keep all parties appropriately informed as matters develop, and resolve the situation in accordance with these rules.

#### (12) Assessment Procedures.

(A) Accepting Clients. Behavior analysts and assistant behavior analysts shall accept as clients only those individuals or legal entities whose behavior problems or requested service are commensurate with the behavior analyst's or assistant behavior analyst's education, training, and experience. In lieu of these conditions, behavior analysts and assistant behavior analysts must function under the supervision of or in consultation with a behavior analyst whose credentials permit working with such behavior problems or services.

(B) Consultation.

1. Behavior analysts and assistant behavior analysts shall arrange for appropriate consultations and referrals based principally on the best interests of their clients, with appropriate consent, and subject to other relevant considerations, including applicable law and contractual obligations.

2. When indicated and professionally appropriate, behavior analysts and assistant behavior analysts shall cooperate with other professionals in order to serve their clients effectively and appropriately. Behavior analysts and assistant behavior analysts shall recognize that other professions have ethical codes that may differ in their specific requirements from these rules.

(C) Competent Use of Assessment Techniques. The behavior analyst and assistant behavior analyst shall use, administer, and interpret applied behavior analysis assessment techniques competently and maintain current knowledge about research developments and revisions concerning the techniques that are used.

(D) Behavior Assessment.

1. Assessing Behaviors. Behavior analysts and assistant behavior analysts who use behavioral assessment techniques shall do so for purposes that are appropriate in light of research. Behavior analysts and assistant behavior analysts shall recommend seeking a medical consultation if there is any reasonable possibility that a referred behavior is a result of a medication side effect or some biological cause.

A. Behavior analysts' and assistant behavior analysts' assessments, recommendations, reports, and evaluative statements shall be based on information and techniques sufficient to provide appropriate substantiation for their findings.

B. Behavior analysts and assistant behavior analysts shall refrain from misuse of assessment techniques, interventions, results, and interpretations and take reasonable steps to prevent others from misusing the information these techniques provide.

C. Behavior analysts and assistant behavior analysts shall recognize limits to the certainty with which judgments or predictions can be made about individuals.

D. Behavior analysts and assistant behavior analysts shall not promote the use of behavioral assessment techniques by unqualified persons, i.e., those who are unsupervised by experienced professionals and have not demonstrated valid and reliable assessment skills.

E. Behavioral Assessment Approval. Behavior analysts or assistant behavior analysts shall obtain the client's or client-surrogate's approval in writing of the behavior assessment procedures before implementing them. As used here, client-surrogate refers to someone legally empowered to make decisions for the person(s) whose behavior the program is intended to change; examples of client-surrogates include parents of minors, guardians, and legally designated representatives.

F. Functional Assessment.

(I) Behavior analysts or assistant behavior analysts shall conduct a functional assessment, as defined below, to provide the necessary data to develop an effective behavior change program.

(II) Functional assessment includes a

variety of systematic information-gathering activities regarding factors influencing the occurrence of a behavior (e.g., antecedents, consequences, setting events, or motivating operations) including interview, direct observation, and experimental analysis.

G. Explaining Assessment Results. Unless the nature of the relationship is clearly explained to the person being assessed in advance and precludes provision of an explanation of results (such as in some organizational consultation, some screenings, and forensic evaluations), behavior analysts and assistant behavior analysts shall ensure that an explanation of the results is provided using language that is reasonably understandable to the person assessed or to another legally authorized person on behalf of the client. Regardless of whether the interpretation is done by the behavior analyst, or assistant behavior analyst, or others, behavior analysts and assistant behavior analysts shall take reasonable steps to ensure that appropriate explanations of results are given.

H. Treatment Efficacy.

(I) The behavior analyst shall always have the responsibility to recommend scientifically supported most effective treatment procedures. Effective treatment procedures have been validated as having both long-term and short-term benefits to clients and society.

(II) Clients have a right to effective treatment (i.e., based on the research literature and adapted to the individual client).

(III) Behavior analysts and assistant behavior analysts shall be responsible for review and appraisal of likely effects on the behavioral intervention of all alternative treatments, including those provided by other disciplines and no intervention.

(IV) In those instances where more than one scientifically supported treatment has been established, additional factors may be considered in selecting interventions, including, but not limited to, efficiency and cost-effectiveness, risks and side-effects of the interventions, client preference, and practitioner experience and training.

I. Confidential Information. Behavior analysts and assistant behavior analysts shall treat an assessment result or interpretation regarding an individual as confidential information.

J. Communication of Results. Behavior analysts and assistant behavior analysts shall accompany communication of results of assessment procedures to the client, parents, legal guardians, or other agents of the client by adequate interpretive aids or explanations.

K. Reservations Concerning Results. Behavior analysts and assistant behavior analysts shall include in his or her report of the results of an assessment procedure any deficiencies of the assessment norms for the individual assessed and any relevant reservations or qualifications which affect the validity, reliability, or other

interpretation of results.

L. Protection of Integrity of Assessment Procedures. Behavior analysts and assistant behavior analysts shall not reproduce or describe in popular publications, lectures or public presentations, tests or other assessment devices in ways that might invalidate them.

M. Information for Professional Users. Behavior analysts and assistant behavior analysts offering an assessment procedure or automated interpretation service to other professionals shall accompany this offering by a manual or other printed material which fully describes the development of the assessment procedure or service, the rationale, evidence of validity and reliability, and characteristics of the normative population. Behavior analysts and assistant behavior analysts shall explicitly state the purpose and application for which the procedure is recommended and identify special qualifications required to administer and interpret it properly. Behavior analysts and assistant behavior analysts shall ensure that the advertisements for the assessment procedure or interpretive services are factual and descriptive.

(13) Violations of Law.

(A) Violations of Applicable Statutes. Behavior analysts and assistant behavior analysts shall not violate any applicable statute or administrative rule regarding the practice of behavior analysis.

(B) Use of Fraud, Misrepresentation or Deception. Behavior analysts and assistant behavior analysts shall not use fraud, misrepresentation, or deception in:

1. Obtaining a behavior analyst or assistant behavior analyst license;
2. Passing a behavior analyst or assistant behavior analyst licensing examination;
3. Assisting another to obtain a behavior analyst or assistant behavior analyst license or to pass a behavior analyst or assistant behavior analyst licensing examination;
4. Billing clients or third-party payors;
5. Providing behavior analysis service;
6. Reporting the results of applied behavior analysis evaluations or services; or
7. Conducting any other activity related to the practice of applied behavior analysis.

(14) Aiding Unauthorized Practice.

(A) Aiding Unauthorized Practice. Behavior analysts and assistant behavior analysts shall not aid or abet another person in misrepresenting his or her professional credentials or in illegally engaging in the practice of applied behavior analysis.

(B) Employing Other Licensed Professionals. A behavior analyst and assistant behavior analyst may employ or utilize the services of other licensed professionals in his or her practice so long as this professional is acting within the terms and scope of his or her respective license.

(C) Delegating Professional Responsibility. Behavior analysts and assistant behavior analysts shall not delegate professional responsibilities to a person not qualified or not appropriately credentialed to provide those services.

(D) Providing Supervision. Behavior analysts and assistant behavior analysts shall exercise appropriate supervision over supervisees.

1. In academic and supervisory relationships, behavior analysts and assistant behavior analysts shall establish timely and specific processes for providing feedback to students and supervisees. Information regarding the process shall be provided to the student and supervisees at the beginning of supervision.

2. Behavior analysts and assistant behavior analysts shall evaluate students and supervisees on the basis of their actual performance on relevant and established program requirements.

(15) Resolving Issues.

(A) Reporting of Violations to Board. Behavior analysts and assistant behavior analysts who have knowledge or believe in good faith that there has been a violation of the statutes or rules of the board shall inform the board in writing. When the information regarding that violation is obtained in a professional relationship with a client, behavior analysts and assistant behavior analysts shall report it only with the written permission of the client. Nothing in this rule shall relieve a behavior analyst or assistant behavior analyst of the duty to file any report required by applicable statutes. Failure to report a violation of the statutes or rules, is in itself, an ethics violation. No action will be taken by the board against a behavior analyst who has made a report pursuant to the provisions of this section unless malice is shown to be the motive for an untruthful report.

(B) Providing Information to Client. When behavior analysts or assistant behavior analysts learn from a client of a possible violation of the statutes or rules of the board, or when behavior analysts or assistant behavior analysts receive a request from a client for information on how to file a complaint with the board, behavior analysts and assistant behavior analysts have an obligation to inform the client of the standards of applied behavior analysis and how to file a complaint with the board.

(C) Cooperating with the Board. Behavior analysts and assistant behavior analysts shall cooperate with the Behavior Analyst Advisory Board by promptly responding personally or through his or her attorney to inquiries.

(D) Circumventing Disciplinary Rules. Behavior analysts and assistant behavior analysts shall not circumvent a disciplinary rule of professional conduct through actions of another.

*AUTHORITY: section 337.310.2., RSMo Supp. 2013.\* Original rule filed Sept. 5, 2013, effective April 30, 2014.*

*\*Original authority: 337.310, RSMo 2010, amended 2012.*



# **OTHER STATUTES**

## **CHAPTERS 324 & 376**





# Chapter 324

## Occupations and Professions – General Provisions

**324.003. Payment of fees, method — electronic application and renewal of licensure — written or electronic communications to licensing board, when.** — Notwithstanding any other provision of law or administrative rule to the contrary, the division of professional registration and its component boards, committees, offices, and commissions shall permit:

- (1) Any licensee to submit payment for fees so established in the form of personal check, money order, cashier's check, credit card, or electronic check as defined by section 407.432;
  - (2) Any applicant or licensee to apply for licensure or renew their license in writing or electronically; and
  - (3) Any licensee to make requests of their license-granting board or commission for extensions of time to complete continuing education, notify their license-granting board or commission of changes to name, business name, home address, or work address, and provide any other items required as part of licensure to their licensure board in writing or electronically.
- (L. 2017 S.B. 501)

**324.006. Spouse of active-duty military, first priority given to processing licensure applications.**

All professional licensing boards and commissions shall give first priority to spouses of members of the active duty component of the Armed Forces of the United States in the processing of all professional licensure or certification applications.

(L. 2018 H.B. 1503)

**324.008. Nonresident military spouse, temporary courtesy license to be issued upon transfer of active duty military spouse, when — rulemaking authority.**

1. As used in this section, “nonresident military spouse” means a nonresident spouse of an active duty member of the Armed Forces of the United States who has been transferred or is scheduled to be transferred to the state of Missouri, is domiciled in the state of Missouri, or has moved to the state of Missouri on a permanent change-of-station basis.

2. Except as provided in subsection 6 of this section and notwithstanding any other provision of law, any agency of this state or board established under state law for the regulation of occupations and professions in this state shall, with respect to such occupation or profession that it regulates, by rule establish criteria for the issuance of a temporary courtesy license to a nonresident spouse of an active duty member of the military who is transferred to this state in the course of the member's military duty, so that, on a temporary basis, the nonresident military spouse may lawfully practice his or her occupation or profession in this state.

3. Notwithstanding provisions to the contrary, a nonresident military spouse shall receive a temporary courtesy license under subsection 2 of this section if, at the time of application, the nonresident military spouse:

- (1) Holds a current license or certificate in another state, district, or territory of the United States with licensure requirements that the appropriate regulatory board or agency determines are equivalent to those established under Missouri law for that occupation or profession;
- (2) Was engaged in the active practice of the occupation or profession for which the nonresident military spouse seeks a temporary license or certificate in a state, district, or territory of the United States for at least two of the five years immediately preceding the date of application under this section;
- (3) Has not committed an act in any jurisdiction that would have constituted grounds for the refusal, suspension, or revocation of a license or certificate to practice that occupation or profession under Missouri law at the time the act was committed;
- (4) Has not been disciplined by a licensing or credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing or credentialing entity in another jurisdiction;
- (5) Authorizes the appropriate board or agency to conduct a criminal background check and pay for any costs associated with such background check;
- (6) Pays any fees required by the appropriate board or agency for that occupation or profession; and
- (7) Complies with other requirements as provided by the board.

4. Relevant full-time experience in the discharge of official duties in the military service or an agency of the federal government shall be credited in the counting of years of practice under subdivision (2) of subsection 3 of this section.

5. A temporary courtesy license or certificate issued under this section is valid for one hundred eighty days and may be extended at the discretion of the applicable regulatory board or agency for another one hundred eighty

days on application of the holder of the temporary courtesy license or certificate.

6. This section shall not apply to the practice of law or the regulation of attorneys.

7. The appropriate board or agency shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2011, shall be invalid and void.

(L. 2011 H.B. 136)

#### **324.009. Licensure reciprocity — definitions — requirements.**

1. For purposes of this section, the following terms mean:

(1) "License", a license, certificate, registration, permit, or accreditation that enables a person to legally practice an occupation or profession in a particular jurisdiction; except that "license" shall not include a certificate of license to teach in public schools under section 168.021;

(2) "Oversight body", any board, department, agency, or office of a jurisdiction that issues licenses; except, for the purposes of this section, oversight body shall not include the state board of registration for the healing arts, the state board of nursing, the board of pharmacy, the state committee of psychologists, the Missouri dental board, the Missouri board for architects, professional engineers, professional land surveyors and professional landscape architects, the state board of optometry, or the Missouri veterinary medical board.

2. Any resident of Missouri who holds a valid current license issued by another state, territory of the United States, or the District of Columbia may submit an application for a license in Missouri in the same occupation or profession for which he or she holds the current license, along with proof of current licensure in the other jurisdiction, to the relevant oversight body in this state.

3. The oversight body in this state shall, within six months of receiving an application described in subsection 2 of this section, waive any examination, educational, or experience requirements for licensure in this state for the applicant if it determines that the licensing requirements in the jurisdiction that issued the applicant's license are substantially similar to or more stringent than the licensing requirements in Missouri for the same occupation or profession.

4. The oversight body shall not waive any examination, educational, or experience requirements for any applicant who is currently under disciplinary action with an oversight body outside the state or who does not hold a valid current license in the other jurisdiction on the date the oversight body receives his or her application under this section.

5. The oversight body shall not waive any examination, educational, or experience requirements for any applicant if it determines that waiving the requirements for the applicant may endanger the public health, safety, or welfare.

6. Nothing in this section shall prohibit the oversight body from denying a license to an applicant under this section for any reason described in any section associated with the occupation or profession for which the applicant seeks a license.

7. This section shall not be construed to waive any requirement for an applicant to pay any fees, post any bonds or surety bonds, or submit proof of insurance associated with the license the applicant seeks.

8. This section shall not apply to business, professional, or occupational licenses issued or required by political subdivisions.

9. The provisions of this section shall not be construed to alter the authority granted by, or any requirements promulgated pursuant to, any interjurisdictional or interstate compacts adopted by Missouri statute or any reciprocity agreements with other states in effect on August 28, 2018, and whenever possible this section shall be interpreted so as to imply no conflict between it and any compact, or any reciprocity agreements with other states in effect on August 28, 2018.

(L. 2018 S.B. 840)

#### **324.013. Age, denial of licensure, prohibited, when.**

1. For purposes of this section, the following terms mean:

(1) "License", a license, certificate, registration, permit, or accreditation that enables a person to legally practice an occupation, profession, or activity in the state;

(2) "Oversight body", any board, department, agency, or office of the state that issues licenses. The term "oversight body" shall not include any political subdivision.

2. An oversight body shall not deny any person eighteen years of age or older a license on the basis of age unless the license enables a person to operate a school bus owned by or under contract with a public school or

the state board of education, transport hazardous material, use explosives, or engage in any activity associated with gaming.

(L. 2018 H.B. 1719)

**324.015. Fees, waiver of, when — definitions — procedure — rulemaking authority.**

1. For purposes of this section, the following terms mean:

(1) "Licensing authority", any agency, examining board, credentialing board, or other office with the authority to impose occupational fees or licensing requirements on any occupation or profession;

(2) "Licensing requirement", any required training, education, or fee to work in a specific occupation or profession;

(3) "Low-income individual", any individual:

(a) Whose household adjusted gross income is below one hundred thirty percent of the federal poverty line or a higher threshold to be set by the department of commerce and insurance by rule; or

(b) Who is enrolled in a state or federal public assistance program including, but not limited to, Temporary Assistance for Needy Families, the MO HealthNet program, or the Supplemental Nutrition Assistance Program;

(4) "Military families", any active duty service members and their spouses and honorably discharged veterans and their spouses. The term "military families" includes surviving spouses of deceased service members who have not remarried;

(5) "Occupational fee", a fee or tax on professionals or businesses that is charged for the privilege of providing goods or services within a certain jurisdiction;

(6) "Political subdivision", any city, town, village, or county.

2. All state and political subdivision licensing authorities shall waive all occupational fees and any other fees associated with licensing requirements for military families and low-income individuals for a period of two years beginning on the date an application is approved under subsection 3 of this section. Military families and low-income individuals whose applications are approved shall not be required to pay any occupational fees that become due during the two-year period.

3. Any individual seeking a waiver described under subsection 2 of this section shall apply to the appropriate licensing authority in a format prescribed by the licensing authority. The licensing authority shall approve or deny the application within thirty days of receipt.

4. An individual shall be eligible to receive only one waiver under this section from each licensing authority.

5. The waiver described under subsection 2 of this section shall not apply to fees required to obtain business licenses.

6. State licensing authorities and the department of commerce and insurance shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2018, shall be invalid and void.

(L. 2018 S.B. 843)

**324.028. Forfeiture of membership on board or council for missing meetings.**

Any member authorized under the provisions of sections 256.459, 324.063, 324.177, 324.203, 324.243, 324.406, 324.478, 326.259, 327.031, 329.015, 330.110, 331.090, 332.021, 333.151, 334.120, 334.430, 334.625, 334.717, 334.749, 334.830, 335.021, 336.130, 337.050, 337.305, 337.535, 337.622, 337.739, 338.110, 339.120, 340.202, 345.080, and 346.120 who misses three consecutive regularly scheduled meetings of the board or council on which he serves shall forfeit his membership on that board or council. A new member shall be appointed to the respective board or council by the governor with the advice and consent of the senate.

(L. 2008 S.B. 788, A.L. 2018 S.B. 975 & 1024 Revision)

**324.046. Suicide assessment, referral, treatment and management training required for health care professional licensure.**

1. For the purposes of this section, the term "health care professional" shall mean a physician, other health care practitioner, or mental health professional licensed, accredited, or certified by the state of Missouri to perform specified health services.

2. Any health care professional in the state of Missouri may annually complete training in the areas of suicide assessment, referral, treatment, and management, which may qualify as part of the continuing education

requirements for his or her licensure.  
(L. 2018 H.B. 1719)

**324.047. Guidelines for regulation of certain occupations and professions — definitions — limitation on state regulation, requirements — reports.**

1. The purpose of this section is to promote general welfare by establishing guidelines for the regulation of occupations and professions not regulated prior to January 1, 2019, and guidelines for combining any additional occupations or professions under a single license regulated by the state prior to January 1, 2019.

2. For purposes of this section, the following terms mean:

(1) "Applicant group", any occupational or professional group or organization, any individual, or any other interested party that seeks to be licensed or further regulated or supports any bill that proposes to combine any additional occupations or professions under a single license regulated by the state prior to January 1, 2019;

(2) "Certification", a program in which the government grants nontransferable recognition to an individual who meets personal qualifications established by a regulatory entity. Upon approval, the individual may use "certified" as a designated title. This term shall not be synonymous with an occupational license;

(3) "Department", the department of commerce and insurance;

(4) "Director", the director of the division of professional registration;

(5) "Division", the division of professional registration;

(6) "General welfare", the concern of the government for the health, peace, morality, and safety of its residents;

(7) "Lawful occupation", a course of conduct, pursuit, or profession that includes the sale of goods or services that are not themselves illegal to sell irrespective of whether the individual selling them is subject to an occupational regulation;

(8) "Least restrictive type of occupational regulation", the regulation that is least restrictive, in which the following list of regulations in order from least to most restrictive is used to make such determination:

(a) Bonding or insurance;

(b) Registration;

(c) Certification;

(d) Occupational license;

(9) "Occupational license", a nontransferable authorization in law for an individual to perform a lawful occupation for compensation based on meeting personal qualifications established by a regulatory entity and that, if not possessed, prohibits the individual from performing the occupation for compensation;

(10) "Occupational regulation", a statute, ordinance, rule, practice, policy, or other law requiring an individual to possess certain personal qualifications to work in a lawful occupation;

(11) "Personal qualifications", criteria related to an individual's personal background, including completion of an approved educational program, satisfactory performance on an examination, work experience, criminal history, and completion of continuing education;

(12) "Practitioner", an individual who has achieved knowledge and skill by practice and is actively engaged in a specified occupation or profession;

(13) "Registration", a requirement established by the general assembly in which an individual:

(a) Submits notification to a state agency; and

(b) May use "registered" as a designated title.

Notification may include the individual's name and address, the individual's agent for service of process, the location of the activity to be performed, and a description of the service the individual provides. Registration may include a requirement to post a bond but does not include education or experience requirements. If the requirement of registration is not met, the individual is prohibited from performing the occupation for compensation or using "registered" as a designated title. The term "registration" shall not be synonymous with an occupational license;

(14) "Regulatory entity", any board, commission, agency, division, or other unit or subunit of state government that regulates one or more professions, occupations, industries, businesses, or other endeavors in this state;

(15) "State agency", every state office, department, board, commission, regulatory entity, and agency of the state. The term "state agency" includes, if provided by law, programs and activities involving less than the full responsibility of a state agency;

(16) "Substantial burden", a requirement in an occupational regulation that imposes significant difficulty or cost on an individual seeking to enter into or continue in a lawful occupation and is more than an incidental burden.

3. All individuals may engage in the occupation of their choice, free from unreasonable government regulation.

The state shall not impose a substantial burden on an individual's pursuit of his or her occupation or profession unless there is a reasonable interest for the state to protect the general welfare. If such an interest exists, the regulation adopted by the state shall be the least restrictive type of occupational regulation consistent with the public interest to be protected.

4. All bills introduced in the general assembly to regulate, pursuant to subsection 6 of this section, an occupation or profession shall be reviewed according to the following criteria. An occupation or profession shall be regulated by the state if:

(1) Unregulated practice could cause harm and endanger the general welfare, and the potential for further harm and endangerment is recognizable;

(2) The public can reasonably be expected to benefit from an assurance of personal qualifications; and

(3) The general welfare cannot be sufficiently protected by other means.

5. After evaluating the criteria in subdivision (3) of this subsection and considering governmental, economic, and societal costs and benefits, if the general assembly finds that the state has a reasonable interest in regulating, pursuant to subsection 6 of this section, an occupation or profession not previously regulated by law, the most efficient form of regulation shall be implemented, consistent with this section and with the need to protect the general welfare, as follows:

(1) If the threat to the general welfare resulting from the practitioner's services is easily predictable, the regulation shall implement a system of insurance, bonding, or registration;

(2) If the consumer has challenges accessing credentialing information or possesses significantly less information on how to report abuses such that the practitioner puts the consumer in a disadvantageous position relative to the practitioner to judge the quality of the practitioner's services, the regulation shall implement a system of certification; and

(3) If other regulatory structures, such as bonding, insurance, registration, and certification, insufficiently protect the general welfare from recognizable harm, the regulation shall implement a system of licensing.

6. After January 1, 2019, any relevant regulatory entity shall report, and the department shall make available to the general assembly, upon the filing of a bill that proposes additional regulation of a profession or occupation currently regulated by the regulatory entity, the following factors to the department:

(1) A description of the professional or occupational group proposed for expansion of regulation, including the number of individuals or business entities that would be subject to regulation to the extent that such information is available; the names and addresses of associations, organizations, and other groups representing the practitioners; and an estimate of the number of practitioners in each group;

(2) Whether practice of the profession or occupation proposed for expansion of regulation requires such a specialized skill that the public is not qualified to select a competent practitioner without assurances that minimum qualifications have been met;

(3) The nature and extent of potential harm to the public if the profession or occupation is not regulated as described in the bill, the extent to which there is a threat to the general welfare, and production of evidence of potential harm, including a description of any complaints filed with state law enforcement authorities, courts, departmental agencies, professional or occupational boards, and professional and occupational associations that have been lodged against practitioners of the profession or occupation in this state within the past five years. Notwithstanding the provisions of this section or any other section, the relevant regulatory entity shall provide, and the department shall make available to the general assembly, the information relating to such complaints even if the information is considered a closed record or otherwise confidential; except that, the regulatory entity and the department shall redact names and other personally identifiable information from the information released;

(4) A description of the voluntary efforts made by practitioners of the profession or occupation to protect the public through self-regulation, private certifications, membership in professional or occupational associations, or academic credentials and a statement of why these efforts are inadequate to protect the public;

(5) The extent to which expansion of regulation of the profession or occupation will increase the cost of goods or services provided by practitioners and the overall cost-effectiveness and economic impact of the proposed regulation, including the direct cost to the government and the indirect costs to consumers;

(6) The extent to which expansion of regulation of the profession or occupation would increase or decrease the availability of services to the public;

(7) The extent to which existing legal remedies are inadequate to prevent or redress the kinds of harm potentially resulting from the lack of the requirements outlined in the bill;

(8) Why bonding and insurance, registration, certification, occupational license to practice, or another type of regulation is being proposed, why that regulatory alternative was chosen, and whether the proposed method of regulation is appropriate;

(9) A list of other states that regulate the profession or occupation, the type of regulation, copies of other states' laws, and available evidence from those states of the effect of regulation on the profession or occupation in

terms of a before-and-after analysis;

(10) The details of any previous efforts in this state to implement regulation of the profession or occupation;

(11) Whether the proposed requirements for regulation exceed the national industry standards of minimal competence, if such standards exist, and what those standards are if they exist; and

(12) The method proposed to finance the proposed regulation and financial data pertaining to whether the proposed regulation can be reasonably financed by current or proposed licensees through dedicated revenue mechanisms.

7. If no existing regulatory entity regulates the occupation or profession to be regulated in the bill, the department shall report and make available to the general assembly, upon the filing of a bill after January 1, 2019, that proposes new regulation of a profession or occupation, the following factors:

(1) A description of the professional or occupational group proposed for regulation, including the number of individuals or business entities that would be subject to regulation to the extent that such information is available; the names and addresses of associations, organizations, and other groups representing the practitioners; and an estimate of the number of practitioners in each group;

(2) The nature and extent of potential harm to the public if the profession or occupation is not regulated, the extent to which there is a threat to the general welfare, and production of evidence of potential harm, including a description of any complaints filed with state law enforcement authorities, courts, departmental agencies, professional or occupational boards, and professional and occupational associations that have been lodged against practitioners of the profession or occupation in this state within the past five years. Notwithstanding the provisions of this section or any other section, the department shall release the information relating to such complaints even if the information is considered a closed record or otherwise confidential; except that, the department shall redact names and other personally identifiable information from the information released;

(3) A list of other states that regulate the profession or occupation, the type of regulation, copies of other states' laws, and available evidence from those states of the effect of regulation on the profession or occupation in terms of a before-and-after analysis;

(4) The details of any previous efforts in this state to implement regulation of the profession or occupation; and

(5) Whether the proposed requirements for regulation exceed the national industry standards of minimal competence, if such standards exist, and what those standards are if they exist.

8. After January 1, 2019, applicant groups may report to the department, and the department shall make available to the general assembly, any of the information required in subsection 6 or 7 of this section and whether the profession or occupation plans to apply for mandated benefits.

(L. 2018 H.B. 1500 merged with H.B. 1719)

## Chapter 376

### Life, Health and Accident Insurance – General Provisions

#### **376.1224 Definitions--insurance coverage required--limitations on coverage--maximum benefit amount, adjustments--reimbursements, how made--applicability to plans--waiver, when--report**

1. For purposes of this section, the following terms shall mean:

(1) "Applied behavior analysis", the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationships between environment and behavior;

(2) "Autism service provider":

(a) Any person, entity, or group that provides diagnostic or treatment services for autism spectrum disorders who is licensed or certified by the state of Missouri; or

(b) Any person who is licensed under chapter 337 as a board-certified behavior analyst by the behavior analyst certification board or licensed under chapter 337 as an assistant board-certified behavior analyst;

(3) "Autism spectrum disorders", a neurobiological disorder, an illness of the nervous system, which includes Autistic Disorder, Asperger's Disorder, Pervasive Developmental Disorder Not Otherwise Specified, Rett's Disorder, and Childhood Disintegrative Disorder, as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association;

(4) "Diagnosis of autism spectrum disorders", medically necessary assessments, evaluations, or tests in order to diagnose whether an individual has an autism spectrum disorder;

(5) "Habilitative or rehabilitative care", professional, counseling, and guidance services and treatment programs, including applied behavior analysis, that are necessary to develop the functioning of an individual;

(6) "Health benefit plan", shall have the same meaning ascribed to it as in section 376.1350;

(7) "Health carrier", shall have the same meaning ascribed to it as in section 376.1350;

(8) "Line therapist", an individual who provides supervision of an individual diagnosed with an autism diagnosis and other neurodevelopmental disorders pursuant to the prescribed treatment plan, and implements specific behavioral interventions as outlined in the behavior plan under the direct supervision of a licensed behavior analyst;

(9) "Pharmacy care", medications used to address symptoms of an autism spectrum disorder prescribed by a licensed physician, and any health-related services deemed medically necessary to determine the need or effectiveness of the medications only to the extent that such medications are included in the insured's health benefit plan;

(10) "Psychiatric care", direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices;

(11) "Psychological care", direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices;

(12) "Therapeutic care", services provided by licensed speech therapists, occupational therapists, or physical therapists;

(13) "Treatment for autism spectrum disorders", care prescribed or ordered for an individual diagnosed with an autism spectrum disorder by a licensed physician or licensed psychologist, including equipment medically necessary for such care, pursuant to the powers granted under such licensed physician's or licensed psychologist's license, including, but not limited to:

(a) Psychiatric care;

(b) Psychological care;

(c) Habilitative or rehabilitative care, including applied behavior analysis therapy;

(d) Therapeutic care;

(e) Pharmacy care.

2. All group health benefit plans that are delivered, issued for delivery, continued, or renewed on or after January 1, 2011, if written inside the state of Missouri, or written outside the state of Missouri but insuring Missouri residents, shall provide coverage for the diagnosis and treatment of autism spectrum disorders to the extent that such diagnosis and treatment is not already covered by the health benefit plan.

3. With regards to a health benefit plan, a health carrier shall not deny or refuse to issue coverage on, refuse to contract with, or refuse to renew or refuse to reissue or otherwise terminate or restrict coverage on an individual or their dependent because the individual is diagnosed with autism spectrum disorder.

4. (1) Coverage provided under this section is limited to medically necessary treatment that is ordered by the insured's treating licensed physician or licensed psychologist, pursuant to the powers granted under such licensed physician's or licensed psychologist's license, in accordance with a treatment plan.

(2) The treatment plan, upon request by the health benefit plan or health carrier, shall include all elements necessary for the health benefit plan or health carrier to pay claims. Such elements include, but are not limited to, a diagnosis, proposed treatment by type, frequency and duration of treatment, and goals.

(3) Except for inpatient services, if an individual is receiving treatment for an autism spectrum disorder, a health carrier shall have the right to review the treatment plan not more than once every six months unless the health carrier and the individual's treating physician or psychologist agree that a more frequent review is necessary. Any such agreement regarding the right to review a treatment plan more frequently shall only apply to a particular individual being treated for an autism spectrum disorder and shall not apply to all individuals being treated for autism spectrum disorders by a physician or psychologist. The cost of obtaining any review or treatment plan shall be borne by the health benefit plan or health carrier, as applicable.

5. Coverage provided under this section for applied behavior analysis shall be subject to a maximum benefit of forty thousand dollars per calendar year for individuals through eighteen years of age. Such maximum benefit limit may be exceeded, upon prior approval by the health benefit plan, if the provision of applied behavior analysis services beyond the maximum limit is medically necessary for such individual. Payments made by a health carrier on behalf of a covered individual for any care, treatment, intervention, service or item, the provision of which was for the treatment of a health condition unrelated to the covered individual's autism spectrum disorder, shall not be applied toward any maximum benefit established under this subsection. Any coverage required under this section, other than the coverage for applied behavior analysis, shall not be subject to the age and dollar limitations described in this subsection.

6. The maximum benefit limitation for applied behavior analysis described in subsection 5 of this section shall be adjusted by the health carrier at least triennially for inflation to reflect the aggregate increase in the general price level as measured by the Consumer Price Index for All Urban Consumers for the United States, or its successor index, as defined and officially published by the United States Department of Labor, or its successor agency. Beginning January 1, 2012, and annually thereafter, the current value of the maximum benefit limitation for applied behavior



analysis coverage adjusted for inflation in accordance with this subsection shall be calculated by the director of the department of commerce and insurance. The director shall furnish the calculated value to the secretary of state, who shall publish such value in the Missouri Register as soon after each January first as practicable, but it shall otherwise be exempt from the provisions of section 536.021.

7. Subject to the provisions set forth in subdivision (3) of subsection 4 of this section, coverage provided under this section shall not be subject to any limits on the number of visits an individual may make to an autism service provider, except that the maximum total benefit for applied behavior analysis set forth in subsection 5 of this section shall apply to this subsection.

8. This section shall not be construed as limiting benefits which are otherwise available to an individual under a health benefit plan. The health care coverage required by this section shall not be subject to any greater deductible, coinsurance, or co-payment than other physical health care services provided by a health benefit plan. Coverage of services may be subject to other general exclusions and limitations of the contract or benefit plan, not in conflict with the provisions of this section, such as coordination of benefits, exclusions for services provided by family or household members, and utilization review of health care services, including review of medical necessity and care management; however, coverage for treatment under this section shall not be denied on the basis that it is educational or habilitative in nature.

9. To the extent any payments or reimbursements are being made for applied behavior analysis, such payments or reimbursements shall be made to either:

(1) The autism service provider, as defined in this section; or

(2) The entity or group for whom such supervising person, who is certified as a board-certified behavior analyst by the Behavior Analyst Certification Board, works or is associated.

Such payments or reimbursements under this subsection to an autism service provider or a board-certified behavior analyst shall include payments or reimbursements for services provided by a line therapist under the supervision of such provider or behavior analyst if such services provided by the line therapist are included in the treatment plan and are deemed medically necessary.

10. Notwithstanding any other provision of law to the contrary, health carriers shall not be held liable for the actions of line therapists in the performance of their duties.

11. The provisions of this section shall apply to any health care plans issued to employees and their dependents under the Missouri consolidated health care plan established pursuant to chapter 103 that are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2011. The terms employees and health care plans shall have the same meaning ascribed to them in section 103.003.

12. The provisions of this section shall also apply to the following types of plans that are established, extended, modified, or renewed on or after January 1, 2011:

(1) All self-insured governmental plans, as that term is defined in 29 U.S.C. Section 1002(32);

(2) All self-insured group arrangements, to the extent not preempted by federal law;

(3) All plans provided through a multiple employer welfare arrangement, or plans provided through another benefit arrangement, to the extent permitted by the Employee Retirement Income Security Act of 1974, or any waiver or exception to that act provided under federal law or regulation; and

(4) All self-insured school district health plans.

13. The provisions of this section shall not automatically apply to an individually underwritten health benefit plan, but shall be offered as an option to any such plan.

14. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policy of six months or less duration, or any other supplemental policy.

15. Any health carrier or other entity subject to the provisions of this section shall not be required to provide reimbursement for the applied behavior analysis delivered to a person insured by such health carrier or other entity to the extent such health carrier or other entity is billed for such services by any Part C early intervention program or any school district for applied behavior analysis rendered to the person covered by such health carrier or other entity. This section shall not be construed as affecting any obligation to provide services to an individual under an individualized family service plan, an individualized education plan, or an individualized service plan. This section shall not be construed as affecting any obligation to provide reimbursement pursuant to section 376.1218.

16. The provisions of sections 376.383, 376.384, and 376.1350 to 376.1399 shall apply to this section.

17. The director of the department of commerce and insurance shall grant a small employer with a group health plan, as that term is defined in section 379.930, a waiver from the provisions of this section if the small employer demonstrates to the director by actual claims experience over any consecutive twelve-month period that compliance with this section has increased the cost of the health insurance policy by an amount of two and a half percent or greater over the period of a calendar year in premium costs to the small employer.

18. The provisions of this section shall not apply to the Mo HealthNet program as described in chapter 208.

19. (1) By February 1, 2012, and every February first thereafter, the department of commerce and insurance shall submit a report to the general assembly regarding the implementation of the coverage required under this section. The report shall include, but shall not be limited to, the following:

(a) The total number of insureds diagnosed with autism spectrum disorder;

(b) The total cost of all claims paid out in the immediately preceding calendar year for coverage required by this section;

(c) The cost of such coverage per insured per month; and

(d) The average cost per insured for coverage of applied behavior analysis;

(2) All health carriers and health benefit plans subject to the provisions of this section shall provide the department with the data requested by the department for inclusion in the annual report.

*(L. 2010 H.B. 1311 & 1341)*





